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No. 10-(1)

Supreme Court, U.S.
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In The

# Supreme Court of the United States

In Re H. Clark Ford, III,

*Petitioner.*

**On Petition For Writ Of Habeas Corpus To The United States Court Of Appeals For The Tenth Circuit**

## MOTION FOR LEAVE TO FILE A PETITION FOR WRIT OF HABEAS CORPUS, PETITION FOR WRIT OF HABEAS CORPUS AND APPENDIX PAGES 1-302

**VOLUME I**

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# MOTION FOR LEAVE TO FILE A PETITION FOR WRIT OF HABEAS CORPUS

## I. Introduction

The United States Supreme Court is the proper venue for which to file this Application for the Writ of Habeas Corpus. Mr. Ford is posed to submit his redress of grievances. This supplication must not be transferred to the U.S. District Court for the District of New Mexico. Such an action is equivalent to an outright denial of the Writ where no weight will be given to reason or justice.

## II. Fraud upon the Court

The court system has been corrupted through fraud upon the court. The IRS filed a petition to enforce summonses against Ford. This petition was factually inaccurate:

1. It misidentified Ford as a collective entity.
2. It claimed that Ford had not filed returns.
3. It claimed that there was a tax debt.
4. Authority to summons and take testimony is not delegated.
5. Summons form is obsolete.
6. The U.S. District Court acted outside of its geographical jurisdiction.

The summonses for which the IRS sought enforcement entailed a criminal investigation even though

there were no criminal statutes quoted in the petition itself. Other than fabricating facts, the petition itself had a structural flaw. The fraud that had been heaped upon the U.S. District Court for the District of New Mexico was so overwhelming that it influenced a blatant lie in the court order stating that testimony had been given when it had not been given. This prevarication resulted in Ford having been sent to jail for indirect contempt (App.53, *cf.*, App.554-563 also App.498). Furthermore the individual who initiated this complaint was not a section 7608 agent:

> *Okay I am a revenue officer not a revenue agent.*[1]

Also upon the face of both summonses that Mr. Pryor had served upon Mr. Ford it is evident that the "officer" had failed to acquire proper delegated authority for which to issue and serve a summons and take Mr. Ford's testimony. Neither summons will sport an authorized signature (App.391,394). To make his arguments, Ford filed a request for hearing (App.395). He came before the court on June 7, 2007 to argue his motion. The District Court denied his motion *sua sponte* on the pleadings just prior for time to appear and ordered him into jail for indirect contempt of court. Ford filed an interlocutory appeal in a *habeas corpus* format arguing that his detainment had resulted from egregious misconduct (App.575-613).

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[1] App.374.

## III. The Integrity of the Court

When it becomes apparent that the integrity of the court may very well be under the influence of fraud, it is behooving for the court to move swiftly avoiding certain rules of protocol to eradicate the effects of fraud as quickly as possible. "Inherent power of court to grant equitable relief from judgment procured by fraud upon court is not subject to procedural requirements for obtaining relief from final judgment . . . "[2] Ford's notice *habeas corpus* arrived to the Tenth Circuit Court on July 11, 2007 by way of his docketing statement. The Tenth Circuit Court sat on this notice of "egregious misconduct" until eight months later. The mandate appeared on the district court record at docket number 66 (*see* Mandate App.513). From that point in time, the application became suppressed. The U.S. District Court dismissed with prejudice the Application for Habeas Corpus along with the Petition to Enforce Summons on March 24, 2008 (App.34-35). As a court of judicial review, this circuit court has failed to appreciate the fact that a district judge had lied in her order sending a man to jail (App.57). Furthermore, if it was to decide that the complaint had been filed in the wrong venue, it should have hastened the complaint to district forthwith rather than procrastinate for eight months. While in his jail cell, Ford applied for *mandamus* August 27, 2007. If the Circuit Court had been diligent in regards to *habeas corpus* he would not have felt the need to file for *mandamus* to eradicate fraud from the court record (App.624-641).

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[2] *Moya v. The Catholic Archdiocese of New Mexico*, 755 P.2d 583 (1988).

## IV. Sua Sponte

There are two actions in this plea for *habeas corpus*: Petition to Enforce Summons and the Application for Mandamus. Ford had made a total of 7 setting requests in these two actions. All of these requests were denied *sua sponte* on the pleadings. This includes two motions by the IRS to dismiss "with prejudice." The judgment role for both of these consolidated actions will not sport a single full hearing. Neither of them will evince any form of testimony or cross examination. Even though Ford approached the court to formally enter documents into evidence he had been denied and sent to jail on June 7, 2007 (App.499-500, *cf.*, App.532-533). If Ford had initially filed a petition of *habeas corpus* at the district level, it would have met a similar fate as did *mandamus*. At this time, it would be a futile effort to contemplate commencing a complaint at the district level in view of the kind of prejudicial treatment Ford has received from that court. To exacerbate the issue, the Circuit Court has issued litigation sanction that would disallow him from filing any form of an appeal from the district court (App.11-15, *cf.*, App.17).

## V. Egregious Misconduct

Though the Tenth Circuit court issued an order sending Ford's application to the District Court on January 25, 2008, the mandate did not appear on the court record until March 11. On March 13 a response

by Ford had been entered to answer the Internal Revenue Service's motion to dismiss the Petition to Enforce Summons (App.355-359). He argued that genuine issues of material fact were still pending and that jurisdiction was still lacking (App.352-354). He further emphasized this argument by requesting a hearing on the matter on March 21 (App.513, doc.68). Not only had there remained material issues on the court record (App.395-396), the judgment roll also contained a mandate from the Circuit Court pertaining to the Grand Writ (App.513-514, *see* docs.65-69). Even with all these matters pending, the District Court, behaving in its usual mode, once again dismissed the action with prejudice *sua sponte* on the pleadings committing an apostasy in light of the doctrine of *res judicata*.

## VI. Conclusion

In light of the above argumentation Mr. Ford appeals to the U.S. Supreme Court to consider this petition for the following concise reasons:

1. This complaint is founded upon void orders and judgments; subject matter is never waived and the IRS failed to render *in persona*.

2. These arguments allege that the IRS moved the District Court upon jurisdictional fraud. The judicial system must move swiftly to eradicate any trace of fraudulent input from its decision making process.

3. Lastly, Mr. Ford has already exhausted his efforts in the lower courts. He has been met with the highest degree of prejudice from the inferior courts in the past. In the light of sanctions issued by the Tenth Circuit, he has no other venue in which to seek relief from void judgments.

*Wherefore:*

> *For the preservation of the rule of law, the Movant prays that reason will prevail to encourage the Supreme Court to accept original jurisdiction in the Petition for the Writ of Habeas Corpus.*

Respectfully submitted,

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## QUESTIONS PRESENTED

This Application is requesting relief from three "void" orders issued from "void" action # 07-0016 Petition to Enforce Summons. The Petitioner is also requesting relief from a "voidable" order at action # 07-0836 Application for Mandamus. These orders have been issued by the U.S. District Court for the District of New Mexico and affirmed by the Tenth Circuit Court. After viewing the face of the judgment roll these questions must arise (App.511-531):[1]

1. Upon the face of the judgment roll is there any evidence of a *Date of Summary Record Assessment* as defined at 26 C.F.R. § 301.6203-1?

2. Upon the face of the judgment roll is there any evidence of a *Date of Delegated Authority* as defined at 1984-37 IRB 12 D.O. No. 4 Rev. 15 1984-2 Sept. 10, 1984; WL 37359 (IRS DLO) (1)(d) on p.2?

3. Upon the face of the judgment roll is there any evidence that *Summons Form 2039* bears authority for Internal Revenue Service usage in accordance with Rev. Proc. 84-62 1984-37 IRB 35 1982-2 Sept. 10, 1984?

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[1] These three italicized elements are lacking from the court record. Their absence equates a lack of federal jurisdiction. For emphasis, these terms will be italicized throughout the text.

**QUESTIONS PRESENTED** – Continued

4. Had testimony been presented to the U.S. District Court for the District of New Mexico to sustain an order sending Mr. Ford to jail June 7, 2007?

5. Had the U.S. District Court for the District of New Mexico issued conclusions of law and findings of fact that Mr. Ford had failed to file returns for tax periods 1997-2006?

6. Did Mr. Ford waive his special appearance in action 07-0016 prior to June 7, 2007?

7. Did the Internal Revenue Service render to the U.S. District Court for the District of New Mexico subject matter jurisdiction?

## PARTIES AND NON-CORPORATE STATEMENT

### *Petitioner*

Petitioner is H. Clark Ford, III. The trial court sent him to jail while lying about their having been testimony. As a result he lost 266 days of freedom and suffered double taxation. His mother gave birth to him on November 11, 1946. His birth took place in the State of Ohio. He had found his domicile as a boy in the particular State of Arizona. He studied Political Science at Arizona State University and served three years in the U.S. Marine Corps. Since 1976, he has lived in the County of Chaves in the particular State of New Mexico. By virtue of this verified application H. Clark Ford, III, affirms and deposes that he represents no other legal entity other than his own "natural born self."[2] He is not a "collective entity" that represents any trust, corporation or partnership or any other likewise fiction. H. Clark Ford, III, will be frequently referred to in these matters as "Ford" or "Petitioner."

### *Respondents*

Internal Revenue Service is an agency under the Department of the Treasury. H. Clark Ford III cannot authoritatively state that the Department of Treasury is the U.S. Department of Treasury. Michael J. Pryor

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[2] The Petitioner finds it necessary to make this distinction; the IRS summonses him with third person summonses.

**PARTIES AND**
**NON-CORPORATE STATEMENT** – Continued

is into an agency/principle relation with the Internal Revenue Service. He has an identification number with the Internal Revenue Service – 84-10124. Michael J. Pryor will be frequently referred to as "Pryor"; The Internal Revenue Service will frequently be referred to as "IRS." Michael J. Pryor is named in his personal capacity and his official capacity. The Internal Revenue Service is named in its corporate capacity

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## I. HISTORY AND OPINIONS BELOW

The IRS filed petition to enforce summonses on March 12, 2007 (App.380). On April 23 the District Court ordered Ford to appear before the IRS "official" on May 2. Ford appeared as ordered. He also had filed a motion 60(b)(3)(4) the preceding day to set aside void order (App.477). On May 25 the District Court granted Ford a setting for June 7 (App.520, *see* Notice of Hearing doc.16). Ford appeared on June 7 to try his motion. Instead, the District Court ordered him to jail and denied his motion "on the pleadings" *sua sponte* (App.47,53).

Ford filed a notice of appeal June 29 on two void orders sending him to jail and denying his motion *coram nobis* (*see U.S. v. Ford*, 512 F.3d 1047 (CA 10 2008), App.519, doc.25). Ford remained in jail during the appeal process. His appeal had been written in *habeas corpus* format (App.575-613). His docketing statement arrived July 11. The Circuit Court affirmed the lower court on January 25, 2008 (App.18). Ford remained in jail until February 27, 2008.

On August 27, 2007 Ford filed an application for mandamus. The District Court dismissed this action with prejudice on January 8, 2008 (App.36). Ford filed a notice of appeal on February 4, 2008. Ford's appeal on mandamus became appeal # 08-2034. District Court dismissed Petition to Enforce Summonses "with prejudice" on March 24, 2008 (App.34). Ford gave notice of appeal on May 7, 2008. This became appeal number 08-2121. Circuit Court consolidated these two appeals and affirmed the

lower court on both counts December 19, 2009 (App.1). On January 5, Circuit Court enacted litigating and pecuniary sanctions (App.17).

## II. JURISDICTIONAL STATEMENT

On July 11, 2007 Ford made his appearance pro se in accord with his notice of appeal filed with the District Court June 29. He had made an interlocutory appeal on two void orders issued June 7. His appeal was in a *habeas corpus* format (App.575-613). The Circuit Court ruled on January 25, 2008 that the Application would have to be sent back to the District Court (App.31). Due to the matters presented in the statement of finality and considering that, the United States is a party to this cause of action subject matter is rendered by and through Article III, Section 2.

Mr. Ford questioned jurisdiction over the body in his answer to the first petition. He did so by making a "special appearance" while challenging venue (App.58). At no time did the Petitioner make a motion to waive his special appearance. Furthermore, the IRS at no time made any assertions that their complaint carried any kind of subject matter that would render to the court concurrent or extra-territorial jurisdiction. The District Court proceeded to incarcerate Mr. Ford without procuring *in persona*. As the District Court has gone beyond its geographical jurisdiction, subject matter is rendered by and through Article I, Section 8, Clause 17. In Respect to Mr. Ford suffering a direct tax, subject matter is found at

Article I, Section 9, Clause 4 (App.62,¶18). Through administrative indifference both the Circuit Court and the District Court have managed to repeal the writ of habeas corpus. To correct these misdeeds to our justice system subject matter is rendered by and through Article I, Section 9, Clause 2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 2241(4).

## III. CONSTITUTIONAL PROVISIONS

"Congress shall pass no law abusing the freedom to petition the government for a redress of grievances."[1] Mr. Ford has been sanctioned for filing an appeal where his statutory right to be informed under 26 U.S.C. § 6203 had been denied "with prejudice" contrary to the doctrine of *res judicata*.

"The right of the people to be secure in their persons, houses, and effects . . . shall not be violated. . . ."[2] The U.S. District Court for the District of New Mexico enforced an IRS summons that had no legitimate purpose.

"No person shall . . . , be deprived of life, liberty, or property, without due process of law. . . ."[3] The U.S. District Court for the District of New Mexico enforced two obsolete summonses that allow for criminal investigation. Petitioner is at a loss of 266 days out of

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[1] First Amendment

[2] Fourth Amendment.

[3] Fifth Amendment.

his life having been sent to jail for indirect contempt of court where his accuser was not in the courtroom and the court lied about there having been testimony. Petitioner was not allowed to enter evidence or cross examine.

"No person shall . . . be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law. . . ."[4] Petitioner was ordered into detention until he produced records and gave testimony under the enforcement of an accusatory *2039 summons form*. He rendered information under duress.

"In all criminal prosecutions, the accused shall . . . be informed of the nature and cause of the accusation [and] be confronted with the witnesses against him. . . ."[5] Petitioner was unable to assess the nature and cause of the complaint against him; the petition filed against him on March 12, 2007 was structurally flawed and factually inaccurate. The particular individual that accused him of indirect contempt of court was not in the courtroom on June 7, 2007.

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."[6] It is excessive and improper to issue sanctions upon a frivolous appeal for a meritless "with prejudice" dismissal for an action in mandamus.

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[4] *Ibid*

[5] Sixth Amendment.

[6] Eighth Amendment

"No . . . direct tax shall be laid unless in proportion to the census. . . ."[7] On February 27, 2008, Ford was forced to render forth his personal property in the form of a direct tax to preserve his expectancy of privacy[8] and regain his right to liberty.

" . . . No warrant shall issue, but upon probable cause supported by oath or affirmation. . . ." Ford was sent to jail on June 7, 2007 where no testimony had been given.[9]

## IV. STATEMENT OF THE CASE

### Cause of Action and Grounds for Issuance

The District Court District of New Mexico issued orders to enforce a summons form which has been declared to be obsolete for IRS usage for the past quarter century. The enforcement of this illegal form gave rise to a loss of liberty and personal property. Currently the Petitioner seeks relief from the uncertainties that he endures now and for the future due to void orders and judgments, which the Tenth Circuit Court has affirmed. Most of all, H. Clark Ford, III, must redeem himself from two court actions that refuse to recognize his human existence deprecating his character with criminal innuendos.

### Petition to Enforce Summons

Ford met with Pryor on February 27, 2008. Ford agreed to answer questions under duress. Order

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[7] Article I, Section 9, Clause 4.

[8] Fourth Amendment

[9] *Ibid*

dismissing the Petition to Enforce Summons "with prejudice" will not consider this. Under this uncertainty, Ford does not know if the substitute 1040 forms that IRS employee made out in violation of 26 U.S.C. § 6020 are in fact hanging over his head (App.426). In addition, void order at App.34 will give legitimacy to a tax debt that remains in dispute; the judgment roll will not reveal a *Summary Record Assessment*. The order in action # 07-0016 gives legitimacy to double taxation.

In regards to void order at App.53, Ford seeks relief from the stigma attached to contempt of court. This is a blemish on his name and his reputation having lost 266 days out of his life under a blatant denial of due process. This denial is a direct causality of fraud upon the court manifesting in a lie from the bench itself (App.580).

Ford suffers insecurity and uncertainty under void order at App.47. From this order, the District Court asserts that Ford did not file returns or pay taxes for ten years. Ford suffers trauma over not knowing if some form of complaint may arise deeming him something he is not.

**Application for Mandamus**

Ford needs relief from uncertainty as to whether or not a Certified Assessment Officer has at any time within the time period of 1996-2006 signed a *Summary Record Assessment* in regards to H. Clark Ford, III. The Petitioner has sought this information since May 31, 2006 (App.327).

**First Void Order**

The order at App.47 Petition to Enforce Summons case # 07-0016 issued on June 7, 2007 incarcerating the Petitioner for indirect contempt of court is void. The Tenth Circuit Court affirmed this void ruling on January 25, 2008 in appeal 07-2162. The Writ nullifying said order must issue based upon the following grounds:

1. District Court issued order without an evidentiary hearing basing its holding upon triple hearsay and innuendo depriving a natural born man of his liberty.
2. The Petition to Enforce Summons was factually inaccurate and structurally flawed.
3. Court lied about testimony.

**Second Void Order**

The order at App.53 Petition to Enforce Summons case # 07-0016 issued on June 7, 2007 denying motion on the pleadings is void. The Tenth Circuit Court affirmed this order on January 25, 2008 in appeal 07-2162. The Writ nullifying said order must issue based upon the following grounds:

1. Manner in which the denial had occurred was deceptive in nature denying substantive and procedural due process.
2. *Sua sponte* denial occurred where material facts were at issue through pleadings and affidavits with conflicting declarations.

3. After having been granted a setting, order on the pleadings came as a surprise.

**Third Void Order**

The order at App.34 Petition to Enforce Summons case # 07-0016 issued on March 24, 2008 dismissing action "with prejudice" is void. The Tenth Circuit Court affirmed this order on December 19, 2008 in consolidated appeals 08-2034 and 08-2121. The Writ nullifying said order must issue based upon the following grounds:

1. There remain genuine issues of material fact.
2. There is no evidentiary hearing upon the face of the judgment roll.
3. There is a lack of substantive and procedural due process.
4. There is a mandate from Circuit Court for habeas corpus.

**Fourth, the Order Dismissing Mandamus is Voidable**

The order at App.36 dismissing case number 07-0836 issued on January 8, 2008 affirming a "with prejudice" dismissal is voidable. The Tenth Circuit Court affirmed this order on December 19, 2008 in consolidated appeals 08-2034 and 08-2121. The Writ nullifying said order must issue based upon the following grounds:

1. Holding is contrary and in violation of the doctrine of *res judicata*.
2. Holding denies a statutory right to information allowing a public servant to deviate from a ministerial duty.
3. Through corruption, the District Court denied Ford the ability to litigate.

## V. ARGUMENT

### A. Introduction

The Petitioner will assert that all judgments and orders in these proceedings have been made without a "full hearing." There has been no evidence formerly introduced even though the Petitioner had made repeated attempts to request hearings on genuine material issues. At no time, did the District Court allow him to introduce evidence nor did he ever have the opportunity to cross-examine. The court registry is deplete of testimony. In as much as these actions before us have been dismissed "with prejudice" these orders run contrary to the doctrine of *res judicata*.

### B. Petition to Enforce Summons

#### 1. The Rule of Law Shall Not Sustain a Petition that is Factually Inaccurate and Structurally Flawed

In light of the above assertions, there is no cause of action in case number 07-0016 Petition to Enforce Summons. Under such circumstances, the court does not have control over the subject matter. *In persona* is

lacking. The IRS asked the District Court to enforce an administrative summons form that lacked legal efficacy;[10] secondly, an individual that lacked standing in which to issue the obsolete summonses affected the petitions.[11]

The IRS filed a petition against Mr. Ford on March 12, 2007. This petition stated that it was necessary for the District Court to enforce summons because Mr. Ford had not filed returns. Document number 1 in action 07-0016 is structurally flawed in that there is no statute stated in the petition that corresponds to the complaint (App.380-398). The IRS complained about Mr. Ford under sections 7604(b) and 7402 of Title 26. Neither of these sections says anything about one not having filed returns. Thus, there is a variation between the complaint and any corresponding statutes stated in the petition. This causes confusion and uncertainty for the reader. It has also resulted in the issuance of void law, which continues to cause confusion.

The Petitioner entered his returns on the court record in his response to the complaint on April 16, 2007 (App.77-300). At that point, the IRS had also filed a petition that was factually inaccurate. Since March 12, 2007, the IRS filed a structurally flawed

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[10] *See* Rev. Proc. 84-62 1984-37 IRB 35 1984-2 Sept. 10, 1984

[11] *See* 1984-37 IRB 12 D.O. No. 4 Rev. 15 1984-2 Sept. 10, 1984; WL 37359 (IRS DLO) *see* § (1)(d) on p 2.

petition. After April 16, 2007, the IRS had also failed to state a claim:

> ***Mr. Ford's tax liability as of August 2006 was assessed at over $91,600 and estimated at $60,000 plus penalties.***[12]

This is a false statement. On the face of the judgment roll, there is no *Date of Summary Record Assessment* in either action 07-0016 or 07-0836.

No man should be expected to comply with a summons that puts forth falsehoods lest he give credence to such falsehoods. The petition is incomplete; it bears no evidence that a debt exists. Mr. Ford filed returns in affidavit form under 26 U.S.C. section 6011(b). Thus the filing of a petition under sections 7604(b) and 7402 was factually inaccurate and structurally flawed. The petition did not read that enforcement of summons was justified because Ford had failed to file form 1040. It stated that the summonses were necessary because Ford had filed *no returns*. Neither of these two sections says anything about not having filed a return. All of Ford's returns had given notice of default. Over the years, the IRS had complied with these returns. The IRS has failed to traverse. Ford refused to respond to the administrative summonses because Pryor had not produced proof of a nexus between the Petitioner and this "administrative agency" (App.342-345 and 348-351). "In order to establish that IRS summons has been issued in good

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[12] App.382.

faith it must be determined that investigation was pursuant to a legitimate purpose. . . ."[13] There most certainly is no legitimate purpose for this intrusion where Ford had been filing returns and paying taxes at the source in compliance with Amendment XVI:

> ***Kraft – It will show that the income over that seven-year span is $2.63 Million and it will show that the taxes that were paid on that trust were $511.493 . . .*** [14]

### 2. When Challenged, Michael J. Pryor Did Not Establish Standing

Before there was ever an administrative summons placed on Ford's door, the Petitioner had good reason to question Michael J. Pryor's authority to take testimony. On July 19, 2006, Pryor failed to respond to a Demand for a *Summary Record Assessment* (App.329). He had also dishonored an Acceptance of Value for Offer of Proof on September 19, 2006 (App.342). Ford made another fruitless attempt to avoid problems by serving Pryor with another notice of acceptance on November 16, 2006 (App.348). None of these legal activities would have ever taken place had Pryor not defaulted on these various notices. Before the Justice Department had ever filed a petition, Pryor had raised doubt as to his authenticity. After March 12, 2007, Pryor at no time made any

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[13] *Holderbaum v U.S.*, 589 F.Supp. 107 (D C. Colo. 1984).

[14] App.369.

declarations that he was a section 7608 agent endowed with credentials for which to issue an IRS summons; Furthermore, the summonses themselves bear no *Date of Delegated Authority*:

> ***Such authorization shall be manifested by the signature of the authorizing officer on the fact [sic] of the original and all copies of the summons or by a statement on the face of the original and all copies of the summons. . . .***[15]

There is no such authorization manifest on the court record. These unauthorized summons forms have a space provided to sport the *Date of Delegated Authority.* On both summons forms, this space is blank (App.391,394); yet, the District Court moved upon its own volition and the Circuit Court affirms. While taking Ford's testimony on February 27, 2008, Pryor admitted he was not an agent:

> ***I am a revenue officer not a revenue agent***[16]

Michael J. Pryor has presented to the court that he has standing under false pretence. The District Court issued judgments based upon the falsehood that Pryor had standing to bring forth a complaint. Ford attempted to bring Pryor to bear proof of standings in these matters. "It is plaintiff's burden to

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[15] 1984-37 IRB 12 D.O. No. 4 Rev. 15 1984-2 Sept. 10, 1984; WL 37359 (IRS DLO) *see* § (1)(d) on p.2

[16] App.374.

establish standing."[17] The District Court precluded Ford from asking Pryor questions about his standing by holding a hearing when the person of "alleged" importance was not present on June 7, 2007:

> ***With me is Ginger Ray IRS revenue officer. She is here in lieu of IRS revenue officer Mike Pryor who could not make it to this hearing.***[18]

Orders at App.47,53 are void orders in the Petition to Enforce Summons. Pryor was not present at the alleged show cause hearing which denied the motion 60(b)(3)(4) and sent Ford to jail. The District Court abused its discretion by allowing the Petition to Enforce Summons to continue without resolving Ford's challenge to standing. "A district court abuses its discretion when it misapprehends the law or the decision is not supported by substantial evidence."[19] There was no evidence formally entered to sustain the notion that Pryor had "standing" in these matters. Pryor infers that he had standing and Ford challenged that assertion. Pryor proved Ford's point by not coming to the party on June 7, 2007.

The argument is not that the IRS lacks authority to summons and take testimony; rather it is through Pryor's blatant omission and tacit admission that reveals a lack of statutory authority. "Plaintiff seeking

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[17] *DAR v. State*, 133 P.3d 445 (Utah App. 2006)

[18] App.498.

[19] *Brook v. Norwest Corp.*, 136 N.M. 599 (App.Ct. 2004).

standing under statute must demonstrate that interest sought to be protected by plaintiff is arguably within the zone of interest to be protected or regulated by statute."[20] Ford challenged this particular IRS employee; Ford questioned whether the Director or the Secretary had delegated these particular administrative functions. The District Court precluded cross-examination as to whether or not the IRS had imbued Pryor with the authority for which to take testimony. Through incarceration, the District Court forced Ford to give testimony to an individual who had not offered proof of his authority to issue summons or take testimony. "Standing is a jurisdictional issue that may be raised at any stage of an action, including on appeal."[21] Pryor's lack of standing is just one of many issues that the Circuit Court insists on ignoring. By affirming the District Court's judgments at App.47,53 in the Petition to Enforce Summons, the Circuit Court has affirmed an abuse of discretion. To justify Pryor as one who has standing in these matters the Circuit Court makes a ruling in parenthesis referring to *Lonsdale v. U.S.*, 919 F.2d 1440 (CA 10 1990):

> ***( . . . included in the list of meritless arguments the claim that employees of the***

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[20] *Key v. Chrysler Motors Corp.*, 121 N M. 764 (1996).

[21] *Kruse v. McKenna*, 178 P.3d 1198 (Colo. 2008).

***IRS have no power or authority to administer the internal revenue laws.)***[22]

*Lonsdale* purports the above spurious argument that the Circuit Court writes in parenthesis. Ford does not argue that employees from the IRS have no authority to issue summonses; he asserts that an IRS employee must receive delegated authority for which to issue summonses and take testimony if he or she is not of a section 7608 status. This particular "employee" failed to acquire the proper credentials for which to issue a summons. He did not follow proper administrative protocol. None of Pryor's declarations throughout this venture has at any time given the assertion that the Commissioner or the Director had delegated to him the authority for which to summons. At the very least, Pryor has acted in bad faith. This is evident on the face of the two obsolete summonses (App.391,394). The Circuit Court affirms the lower court's rulings by making conclusions upon arguments for which Ford has not made; it lets fly the reckless idea that anybody working for the IRS may process an administrative summons. If this were so, there would not be a space provided for a *Date of Delegated Authority* upon the face of the summons form. We must vacate through the issuance of the Writ of Habeas Corpus to discourage over reaching federal agencies from infringing on the rights of the "natural born."

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[22] App.30. Note the Circuit Court Judge Lucero writes this in parenthesis to avoid having to be responsible for making a ruling off point.

### 3. In Complying with *Summons Form 2039* One Shall Be Stripped of any Form of Human Identity

For twenty-five years, the IRS has been subjecting the American people to compulsive self-incrimination through the use of this obsolete and abusive form:

> ***Two summonses have been previously delivered to me by – both issued on the 11th of August 2006. IRS form 2039. I have maintained that the two summonses have been issued without authority and are written out on an invalid form (emphasis added).***[23]

This form allows the IRS to approach a natural born individual as a "person" – that is a "person" as defined by Title 26.[24] Simply by complying with this form connotes a waiver of one's right against compulsory self-incrimination. "Any forcible and compulsory extortion of a man's own testimony or his private papers to be used as evidence to convict him of a crime would violate the Fifth Amendment privilege."[25] Even though these proceedings are administrative, they take on a criminal nature when initiated with a *2039 summons form*:

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[23] App 364

[24] Title 26 renders a corporate definition to the word "person" – *See* section 7701(a)(1).

[25] *Boyd v. United States*, 116 U.S. 616 (1886).

> ***. . . or for the purpose of inquiring into any offence connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.***[26]

Pryor did not petition Ford under 26 U.S.C. section 7602; yet each summons sports the above language, which is exactly the verbiage that appears in that subsection.

"Fifth Amendment privilege against compulsory self-incrimination protects an individual from compelled production of his personal papers and effects as well as compelled oral testimony."[27] Mr. Ford constructed Appeal # 2162 from his jail cell to influence the Circuit Court that the District Court had put him under compulsory self-incrimination due to *form 2039* being a "third person summons." The Tenth Circuit Court has been indifferent to inalienable rights under the United States Constitution.

Pryor cannot assail Ford upon a section 7602. Pryor is in an administrative capacity; section 7602 is for criminal investigations:

> ***The officers and employees of the Internal Revenue Service whom the Commissioner has designated to carry out the authority described in § 301.7602-1(b) to issue a summons are authorized to serve***

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[26] App 389,392.

[27] *Bellis v. United States*, 417 U.S. 85 (1974). This holding refers to "individual" as a natural born entity. The words "person" and "individual" are corporate terms according to 26 U.S.C. § 7701(a)(1).

> ***a summons issued under sections 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602. (Emphasis added)***[28]

Thus if one is not authorized to issue this summons and take testimony, then he is not authorized to serve the administrative summons.[29] Pryor is lacking in both categories.

Pryor attempts to evade Fifth Amendment scrutiny by treating a recipient as an office holder of some kind of small business sporting some sort of a nexus with the federal government. The IRS makes this assertion where the name of the small business is unknown. Anybody who complies with this summons tacitly waives his or her natural born existence in these matters leaving the constitutional questions out of the picture. The District Court rules that *Summons Form 2039* remained a legitimate summons for Internal Revenue usage. The District Court did not diligently track the citation:

> ***Because Rev. Proc. 55-6 does not reflect current law and practice of the service, it is here by declared obsolete.***[30]

The judgment roll will not support *Summons 2039* as being a legitimate form for which Pryor may

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[28] 26 C.F.R. § 301.7603-1(b); *see* App. 385.

[29] This is why the complaint excludes 26 U.S.C. § 7602 from the petition.

[30] Rev. Proc. 84-62 1984-37 IRB 35 1984-2 C.B. Sept. 10, 1984.

use to summons H. Clark Ford, III. If Rev. Proc. 55-6 is obsolete, then the form for which it gave credence cannot be used. *Summons Form 2039* has been defying the rule of law through judicial activism. This defiance continues with the affirmation of the lower court's ruling sending Ford to jail and denying his motion to set aside on June 7, 2007 (App.47,53). The ruling at appeal 2162 gives notice of *Remark v. U.S.*, 979 F.2d 770 (CA 9 (Wash.) 1992) spouting authority for this abusive summons form. *Remark* has no authority in this matter. The issue became moot when the "third person entities" complied. Ford did not comply. The *Remark* Court refused to rule the issue moot in order to keep this form in play through the color of law. *Remark* relies on *Mimick v. United States,* 952 F.2d 230 (CA 8 1991) to sustain its holding that *Summons Form 2039* remains valid for IRS usage:

> ***Nothing in Rev. Proc. 84-62 indicates, however, that Form 2039 is no longer a valid form. cf. Mimick v. United States,* 952 F.2d 230, 231 (8th Cir. 1991).**[31]

This summons form has been outlawed for 25 years and Circuit Court cannot find a holding that will evince any more judicial integrity in statutory tracking then we have experienced with District Court Judge Herrera. The above statement from the Ninth Circuit Court is incomplete. These Circuit Judges are purposely ignoring the full citation.

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[31] *Remark v. U.S.*, 979 F.2d 770, 771 (CA 9 (Wash.) 1992).

*Mimick* will not delve into the issue; if one were to indulge, we would discover that *Mimick* rules on third person attestation copies. This ruling has nothing to do with issues regarding an improper summons form. It is also worthy of note that the respondents involved were "collective entities." *Remark* also dealt with third person summonses. Ford is a "first person entity," who the courts have treated as a "third person." *Mimick* only refers to *Summons Form 2039* once by writing about it in parenthesis.

### C. Application for Mandamus

**The Tenth Circuit Court Affirms Judgments Contrary To Their Own Holdings in Regards to Summary Judgment**

Ford filed for a writ of mandamus from his jail cell. The District Court had denied him the opportunity to cross-examine Pryor in the original action in regards to the questions of tax situs. He also questioned the man's standing in the matter (App.395). Ford was at a loss of liberty and because he was under compulsion to incriminate himself over an alleged debt, he found it necessary to inform himself as to whether or not there had been a *Date of Assessment.*[32] In as much as the IRS had been inferring tax debt, Ford had a statutory right under section 6203 to proceed under mandamus seeking this information. District Court Judge Herrera virtually denied him his

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[32] *See* 26 C.F.R § 301.6203-1.

right to this information in the Petition to Enforce Summons by her *sua sponte* ruling on the pleadings (App.47). If in fact, there had been no *Date of Assessment* there would be no tax debt and Ford's incarceration would have no basis. "An assessment is an administrative determination of tax liability and until the assessment has been made the tax has not been found to be owing."[33] Furthermore, there would be no legitimate purpose for any of these judicial adventures. In his response to summary judgment, Ford pointed out that the information filed by Pryor did not amount to a *Summary Record Assessment* (App.397,569):

1. There was no *Date of Assessment.*
2. There is no Certified Assessment Officer.
3. The information did not properly identify Mr. Ford.
4. The type of liability is unknown.
5. Pryor failed to reveal the amount of the original assessment.

Section 6203 requires this information. By affirming the District Court's decision to dismiss the Application for Mandamus "with prejudice," the Circuit Court has allowed a public servant to deviate from his ministerial duty. "When statute's language is clear and unambiguous and conveys clear and definite meaning statute must be given its plain and

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[33] *In Re Western Trade Company,* 340 F.Supp. 1130 (D C Nev. 1972).

ordinary meaning."[34] Pryor made no entries on the court record complaining that he did not understand the meaning conveyed by 26 C.F.R. § 301.6203-1.

Neither the District Court nor the Circuit Court has discretion for which to permit defiance of ministerial duty. "The Court of Appeals cannot torture the language of an administrative regulation to reach the result the administrative agency wishes."[35] Pryor did not render evidence of a *Summary Record Assessment* for any of the 10 years before the court (App.408). He produced assessments of penalties and interest constructed by accountant, Sally Gale, who prepared a report on September 24, 2007 covering 1997, 1998, 1999, and 2000. This will not coincide with the notion that Michael J. Pryor issued summonses on August 11, 2006. "The validity of the summons is to be tested to the date of its issuance."[36] There is an anachronism as to the issuance of the summonses. If we were to construe September 24, 2007 to be the *Date of Summary Record Assessment,* Mr. Pryor had issued a summons "before" there was an assessment. In addition, the Petition to Enforce Summons indicates that a Certified Assessment Officer had already made an assessment. Simply because Mr. Pryor produced this information on a particular form does not imply that the information on that form constitutes a *Summary*

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[34] *Key v. Chrysler Motors Corp.*, 121 N.M. 764 (1996).

[35] *Aspenwood Investment Co v Martinez,* 355 F.3d 1256 (CA 10 (Colo.) 2004)

[36] *U S v. Hodgson,* 492 F 2d 1175 (CA 10 1981)

*Record Assessment.* "IRS could not rely solely on form 4340 certificate of assessment and a payment to prove that tax was validly assessed, where form did not list *date* on which actual assessment was made (emphasis added)."[37] Ford challenged the information presented for not constituting a *Summary Record Assessment.* Ford swears in affidavit form that he has filed his own forms with the IRS since 1997 (App.572,¶6,8); Pryor on the other hand indicates that somebody filed 1040's (App.426). This is a genuine material issue on the face of the judgment roll.

The District Court inappropriately granted a summary judgment upon a Rule 56(c)(2) by awarding "credibility" to Pryor giving no weight to any sworn statements made by Ford. The Tenth Circuit Court is nullifying congressional intent in regards to 26 U.S.C. § 6203. In affirming this decision, the Tenth Circuit Court conflicts with previous holdings:

> ***Summary Judgment cannot be awarded when there exists a genuine issue as to material fact and it is not properly awarded when an issue turns on credibility.***[38]

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[37] *Huff v. U.S.*, 10 F.3d 1440 (CA 9 1993).

[38] *Redhouse v. Quality Ford Sales*, 511 F.2d 230 (CA 10 (Utah) 1975).

## D. Corruption

### 1. A motion is denied through corruption

Ford challenged the jurisdiction of the court in a motion *coram nobis* under Rule 60(b)(3)(4). He asserted that the IRS had based its petition on fraud upon the court and that the court lacked authority over the body and the subject matter (App.485-496). The court clerk entered this motion on May 1, 2007. District Court Judge Judith Herrera granted a setting on May 23, 2007. The District Court never intended to hold an evidentiary hearing on the 60(b) motion. District Court Judge Judith Herrera denied the motion *sua sponte*. This motion dealt with the District Court's authority to decide the issue. "Where material facts are disputed, judgment on the pleadings is not appropriate."[39] The denial of a Rule 60(b)(3)(4) constitutes an abuse of discretion. To substantiate its holding in *United States v. Ford,* 514 F.3d 1047 (CA 10 2008), the Circuit Court has to infer that Ford had failed to mention genuine material issues upon appeal:

> ***We also note that Ford has not identified any issues that were on appeal that were compromised by the court's decision to base its rulings on the pleadings alone.***[40]

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[39] *Quiroz v. Goff,* 46 P.3d 486 (Colo 2002), quoting *Kosh v. Whitten,* 140 Colo. 109, 113 (1959).

[40] App.29

The above statement is a corrupt manifestation that has resulted from the factually inaccurate petition filed on March 12, 2007. Ford established issues at docket five in his response by denying eight out of ten IRS assertions; he entered an affidavit of material fact in his motion to set aside (App.479-484). Ford based his appeal upon the egregious misconduct that transpired on June 7, 2007 and before. For a member of the Circuit Court to concur that Ford had not identified any issues at appeal would conclude that particular judge had not read Ford's opening brief for appeal 07-2162 or the docketing statement itself. Ford based his arguments on void law upon appeal (App.575-613).

The Circuit Court has validated void law without addressing the structural and factual difficulties with the initial petitions itself. In so doing, we are validating an obsolete summons. One cannot define case 07-0016 as a legitimate administrative action. " . . . [I]t is shown that where a hearing is required to justify an administrative action there must be evidence *formally introduced* at the hearing and a finding of a decision without such evidence is void (emphasis added)."[41] Ford attempted to "formally introduce"

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[41] *Prather v. Ray,* 258 Ala. 106, 115-116, 61 So.2d 46, 55 (1952), quoting *Akron C&Y Co. v. U.S*, 261 U.S. 184, 43 S.Ct 270, 67 L.Ed. 605 (1923).

evidence when the District Court precluded him (App.47,500).

Circuit Court Judge Baldock has ruled that a denial on the pleadings under a Rule 12(c) should be issued under the same legal standard as a motion to dismiss upon a Rule 12(b)(6):

> ***The denial of a motion for judgment on the pleadings is reviewed under the same standard applicable to the denial of a motion to dismiss for failure to state a claim.***"[42]

To adhere to the same standard as a Rule 12(b)(6), the issuing judge would have to admit to the denials made in Ford's answers to the original complaint and all of the sworn statements in that answer and in his Affidavit of Material Fact to be true. This being the case, the summonses have no legitimate purpose. "In a motion for judgment on the pleadings, all the well-pleaded allegations of the [motion] are accepted as true and construed in the light most favorable to [Mr. Ford]"[43] Neither Circuit Judges Baldock nor Lucero will apply this legal standard to June 7, 2007. The Circuit Court has to prevaricate about there not having been any material issues to preserve their legal standard and cover up the fact

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[42] *Ramirez v. Department of Corrections, Colo* , 222 F.3d 1238 (CA 10 (Colo.) 2000).

[43] *Aspenwood Investment Co. v. Martinez,* 355 F 3d 1256 (CA 10 (Colo.) 2004).

that District Court Judge Judith C. Herrera lied about Pryor giving testimony (App.53, *cf.*, 597, 554-563).

As a matter of law, the District Court would enforce an IRS summons if Ford had not filed returns in affidavit form. The face of the judgment roll shall show that Ford did file returns and as a matter of law, the District Court should not have enforced the summonses. "Once a summons issued by the IRS is challenged it is the *duty* of the district court to scrutinize the summons carefully to determine whether it seeks information relevant to a legitimate investigative purpose (emphasis added)."[44] District Court Judge did not err in denying the motion 60(b) *sua sponte* on June 7, 2007; she abused her discretion. "Abuse of discretion occurs when trial court's ruling is clearly against logic and effect of facts and circumstances."[45] The District Court precluded the Petitioner from making his arguments over three basic sets of material fact:

1. Had Michael J. Pryor followed proper administrative procedures for which to issue a summons and take testimony?
2. Did H. Clark Ford, III, a natural born man, file returns?
3. Was there an administrative nexus between H. Clark Ford, III, and the IRS for the years 1996 and 2006?

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[44] *U S. v. Cooper & Lybrand,* 413 F.Supp. 942 (D.C. Colo. 1975).

[45] *Alpers v Alpers,* 111 N.M 467 (App.Ct. 1990).

District Court does not have the discretion to deny a Rule 60(b)(3)(4) motion where genuine issues of material fact are at bar. It is particularly inappropriate to deny the motion in a *sua sponte* order after having granted a setting (*see* App.526, docs.15-16). Ford raised numerous material issues in his answer and in his motion 60(b). By June 7, 2007, the judgment roll will demonstrate that Ford had traversed a number of statements in the original petition. These were issues of fact not law.[46] By claiming that Ford had failed to establish any material issues, the Circuit Court is making an unsubstantiated conclusion of fact by totally ignoring the court record (*see* Affidavit for Application, App.609-611). The District Court had granted Ford a setting and he had presented in his reply six documents that he had offered to "formally" enter into evidence (App.533). This is corruption manifest where the Circuit Court is affirming an overt act of issue preclusion for the benefit of one party over another.

The issues he had raised in his reply at App.532 and in his request for setting at App.395 reflect the same issues that Ford had explained to Cynthia Weisman in his Notice of Refusal dated February 26, 2007 (App.309).[47] It is sheer folly for the Circuit Court to suggest Ford had not established issues prior to

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[46] *See Ollman v Huddleston*, 41 N.M 75, 76 (1937)

[47] App 395,532.

June 7, 2007. Ford had established issues prior to March 12, 2007. He elaborated on these issues in his opening brief for appeal 07-2162 (App.598-602).

Pryor skis into court relying on two unauthorized forms purporting that he has authority that he does not have. Even after Ford had informed Counsel Wiesman about this through the notice of refusal, counsel for the IRS signs her name to the Petition to Enforce Summons representing someone who has no standing in these matters using unauthorized summons forms. Under the influence of fraud, she enters a structurally flawed petition in which there is no statute to support the petition; nor are there any facts to support the complaint. "It is thus fraud where court or member is corrupted or influence is attempted or where judge has not performed [her] judicial function so that impartial functions of court have been directly corrupted."[48]

### 2. Fraud Upon the Court Gave Direct Cause to Sending a Man to Jail with a Total Lack of Procedural Due Process

On June 7, the District Court held a "show cause hearing" that failed to meet the definition of a "full hearing." The "Trier of Fact" ruled that Ford was in indirect contempt of court on June 7, 2007. This judgment

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[48] *Bulloch v. U.S.*, 763 F.2d 1115 (CA 10 1985)

passes upon the court record where there is no evidence formally entered. "Right to present evidence is essential to fair hearing required by due process clause, and right becomes particularly fundamental where proceeding allegedly results in finding that particular individual was guilty of crime"[49] This may be deemed a civil contempt order if in fact the IRS has been damaged through Ford's alleged recalcitrance. The IRS shall not argue damage; a *Summary Record Assessment* is not on the court record in either court action. Thus, Ford suffered the insult of a criminal contempt judgment where testimony was totally lacking (App.591-598, *cf.*, 554-563).

District Court Judge Judith C. Herrera sent Ford to jail where there was no testimony and no opportunity to cross-examine. "Right to confront and cross-examine witnesses is fundamental aspect of procedural due process."[50] The Circuit Court is suspect for permitting this kind of deprivation. To exacerbate matters, District Court Judge Herrera blatantly bears false pretense in her order to give the appearance that a "full hearing" actually took place when in fact it did not (App.53). In her order to incarcerate the Petitioner, she deliberates upon

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[49] *Jenkins v. McKeithen*, 395 U S 411, 89 S Ct. 1843 (U S (La.) 1969).

[50] *Ibid.*

Ford as if he needed correction in his thinking and his behavior:

> ***To avoid future sanctions and inform himself of what the law actually requires the court recommends that Mr. Ford carefully read the 10th circuit court's opinion in Lonsdale cited above and the law review article by Danshera Cords TAX PROTESTERS AND PENALTIES ENSURING PERCIEVED FAIRNESS AND MITIGATING SYSTEMATIC COSTS 2005 BYU Rev. 1515 2005 and revise his behavior.***[51]

Ford must read some periodical that is not available in jail to find out what the law "actually requires." Evidently, the court itself cannot make that distinction; yet this comment asserts that Ford has been violating the law although the court fails to quote any law:

> ***COURT: I ordered you to go in – take whatever documents you have and provide testimony to the IRS. That is what you were ordered to do. You didn't comply with all of the requirements of my order . . .*** [52]

The trial judge had already been predisposed that Ford had not been cooperative. She made this

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[51] App.52; castigation for past misdeeds is indicative of criminal contempt.

[52] App 505,lns.6-9.

judgment without having allowed cross-examination; District Court made this decision while precluding Ford from formally entering any evidence though she had granted him a setting (App.520, docs.15-16).

The District Court sent Ford to jail without having acquired *in persona* jurisdiction moreover, without holding a "full hearing" to where Ford could cross-examine his accuser or give testimony committing a deprivation of procedural due process (App.590-598). A judge does not have discretion to send a man to jail based on declarations from an individual who is not present in the courtroom or from one who has not taken an oath.

1. ***H. Clark Ford, III, did not swear nor did he testify to anything before the Honorable Judge Judith C. Herrera.***

2. ***Internal Revenue Officer Michael J. Pryor agent # 84-10124 was not present at the June 7, 2007 hearing U.S.A. v. H. Clark Ford, III.***[53]

An order for indirect contempt that advises someone to alter his or her activity is an order for criminal contempt not civil. Furthermore, District Court affirmed that the order was a final order (App.57). "Although contempt order or judgment is characterized as either civil or criminal depending upon its primary purpose when contempt order

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[53] App 562.

contains both punitive and coercive dimensions for purpose of appellate review, it will be characterized as criminal contempt and appealable as final judgment."[54]

> ***Summary adjudication of indirect contempt is prohibited and criminal contempt sanctions are entitled a full criminal process.***[55]

To affirm this inquisition, the Circuit Court finds it necessary to edit Title 26:

> ***Since 2001 if not, earlier Ford failed to file traditional federal income tax returns with the IRS. (Emphasis added)***[56]

There is no criterion established in Title 26 that explains what constitutes a "traditional return." This is a term that the Circuit Court is creating for a matter of convenience to keep Ford under compulsive self-incrimination. The Tenth Circuit Court forced Ford to waive his expectancy of privacy; the Circuit Court also concludes that the lower court had properly sent Ford to jail based on a preponderance of evidence where there had been no evidence formally introduced to the court record for action 07-0016 (App.590-598). Abhorrently, these egregious holdings give rise to an inquisition mentality; "Fraud on the

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[54] *Law v. NCAA*, 134 F.3d 1025 (CA 10 1994).

[55] *International Union United Mine Workers of America v. Bagwell*, 512 U.S. 821 (1994).

[56] App.20 This is a criminal contempt connotation

court occurs when the misconduct harms the integrity of the judicial process. . . ."[57]

### 3. Statutory Nullification Through Egregious Misconduct Must Not Be Tolerated

There was no reason to deconsolidate action 07-0016 from 07-0836 other than to keep Ford in jail and out of the courtroom (App.45). In defying the *doctrine of merger*, United States District Court Judge Herrera relied on no authority and quoted no holdings for which to sustain her order to deconsolidate these matters. Surely, had there been just cause for deconsolidation there would have been no reason justifying *mandamus* remaining in her court. District Court Judge Herrera wanted the Application for Mandamus under her wing to preclude any discussion about tax debt by dismissing the action with prejudice without letting Ford out of jail:

> ***When the court of appeals concludes that the integrity of the judicial process has been harmed by a fraud on the court and the fraud rises to the level of an unconscionable plan or scheme which is designed to improperly influence the court in its decisions the court of appeals not only can act it should.***[58]

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[57] *Dixon v Cir*, 316 F 3d 1041 (CA 9 2003).

[58] *Ibid.*

The Circuit Court certainly agreed with the Petitioner in that they consolidated the two actions when they made their decree on December 19, 2008; however, they ignored the fact that the United States District Court arbitrarily deconsolidated the actions while retaining control over both for "judicial economy" (App.45). The judgment roll will reveal a machination to take Ford out of the legal process. The Circuit Court affirms this kind of behavior by ignoring the corruption.

It is interesting to note how the entire United States District Court worked in unison to nullify congressional intent under 26 U.S.C. § 6203. It is appalling to contemplate that the Circuit Court would affirm this egregious form of misconduct. Where the judgment roll in the lead case shall expose a machination between Counsel Weisman and the Trier, we shall discover a cabal that joins forces to preclude Ford from the courtroom in regards to mandamus. This conspiracy consists of Andrew Sobotka (counsel for Pryor), a district court judge, a magistrate court judge, and the clerk of the court.

The court registry will reveal that Pryor was not required to make a production until November 9, 2007. The clerk of the court entered the Application for Mandamus on August 27, 2007 (App.624-641). This allowed the "public servant" seventy-four days to make a production for which he should have already had in his possession in order to justify his intrusion in August of 2006. The application demands a production of a *Summary Record Assessment* under 26 C.F.R. § 301.6203-1. Pryor would need to have had on

hand this kind of documentation in order to justify trespassing upon Ford's property and hanging "obsolete" summonses upon his door on August 15, 2006. These documents should have been easily assessable; yet the court allowed two and a half month for Pryor to make a production (App.564).

Ford received notice of Andrew Sobotka's appearance at "mail call" November 14, 2007. Sobotka styled his answer as if the mandamus action were a bankruptcy proceeding. By restyling the Application for Mandamus into bankruptcy, counsel for Pryor tried to snafu Ford into a tax debt through tacit admission. The clerk acquiesced by neglecting to enter a notice of deficiency. After seventeen days, Ford, himself, gave notice on November 26, 2007 (App.567, *cf.*, App.564).

Having been under the influence of "Pryor Fraud," Sobotka made an entry under false pretense. As Weiseman had filed a structurally flawed and factually inaccurate petition, Sobotka filed assessments of penalties and interest on a form 4340 portraying those entries to be *Summary Record Assessments* (App.408).[59] "No particular form or document is required to satisfy the requirements of IRC 6203 and Treasury Regulation 301.6203-1. Instead a record is sufficient if it provides the tax payer with required information."[60] Once Sobotka decided to

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[59] Note, this was not an answer to the application, it was a motion to dismiss.

[60] *Goodman v. U S*, 185 Fed App'x 725 (2006), quoting *Taylor v IRS*, 69 F 3d 411, 419 (CA 10 1995).

properly style his appearance and enter these various productions on form 4340 all of the reports sport the same date for all of the tax periods requested. It is impossible for the same Certified Assessment Officer to make a *Summary Record Assessment* for all ten years from 1996-2006 on September 24, 2007. "A certificate of assessment and payment on form 4340 did not create a presumption of a valid penalty assessment where the certificate was prepared *after* the tax payer filed his law suit against the IRS (Emphasis added)."[61] Pryor needed seventy-four days to get with an accountant to make a production to simulate a *Summary Record Assessment*. Sobotka enters these various form 4340s with a date of September 24, 2007 under false pretence asserting this to be the *Date of Summary Record Assessment*. The District Court allows this kind of egregious misconduct while the Circuit Court, in a "tail wagging fashion," affirms the corruption.

In the lead case, District Court granted H. Clark Ford, III, a hearing only to deny his motion on the pleadings just prior to his appearance in court. In the Application for Mandamus, United States District Court Judge Judith C. Herrera blatantly denied Ford access to the court. He had made four requests for hearings one of which was for Pryor's own motion to dismiss (App.569, *cf.*, App.408). The Magistrate

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[61] *Stallard v. United States,* 806 F.Supp. 152 (D C. W. Tex 1992).

joins the fray. Before Ford had entered his notice of deficiency the "Park Commissioner" had decided that there had been enough discovery. He filed an assignment to the Administrative Fast Track on November 21, 2007 (App.43). The "Park Commissioner" worked hand in hand with Andrew Sobotka to secure debt through deceit.

## VI. Conclusion

The Supreme Court set the legal standard for the issuance of an IRS summons in *U.S. v. Powell,* 379 U.S. 48 (1964). *Holderbaum* later clarified this legal standard:

> ***In order to establish that IRS summons has been issued in good faith it must be determined that investigation was pursuant to a legitimate purpose, that the inquiry was relevant to that purpose, that the information sought was not already within the commissioners possession and that the administrative steps required by the code have been followed.***[62]

Going down the list:

1. The summonses were not issued for a legitimate purpose; Pryor issued and served an unauthorized form.

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[62] *Holderbaum v. U.S.,* 589 F.Supp. 107 (D C. Colo. 1984).

2. The inquiry had no purpose; Ford paid his taxes at the source.

3. The Commissioner had the information; Ford filed returns.

4. The summonses were not issued in good faith; Pryor did not follow administrative procedures to acquire delegated authority.

5. Ford is a "first person entity."

"At enforcement hearing, a tax payer may challenge enforcement of summons on any appropriate grounds."[63] Ford challenged these summonses on many appropriate grounds. He lost 266 days out of his life; he has endured not only a depletion of his personal property but a blemish upon his name. He has been sanctioned for questioning venue.

There are two actions before this Supreme Court. The District Court dismissed both of them "with prejudice":

> ***The term, "with prejudice," as contemplated by rules that dismissal of action with prejudice operates as adjudication on merits, imports finality, and should be used sparingly and cautiously, but should operate as bar to reinstitution of***

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[63] *U S. v. Riewe*, 676 F.2d 418 (CA 10 1982)

> ***suit for same cause of action, unless trial court abuses [her] discretion.***[64]

Neither of these actions has been decided on the merits; the trial judge has abused her discretion throughout.

***Wherefore:***

***1. Petitioner prays for the rule of law and the ends of justice granting relief from void order at App.47 action 07-0016 <u>Petition to Enforce Summons</u>. This order was issued on June 7, 2007 by the District Court District of New Mexico and affirmed by the Circuit Court of the Tenth Judicial Circuit January 25, 2008:***

- ***a) Order the return of $100,000 of personal property to the Petitioner with 8% monthly compounded interest commencing from February 27, 2008.***
- ***b) Order any and all assertions of the Petitioner having failed to file returns or having evaded federal income tax to be stricken from court record.***
- ***c) Order that any inferences made in this action that H. Clark Ford, III, had participated in tax protest activities be stricken from court record.***

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[64] *Mayflower Industries v Thor Corp.*, 15 N.J.Super 139, 83 A.2d 246 (N J Super.Ch. 1951)

***2. Petitioner prays for the rule of law and the ends of justice granting relief from void order at App.53 action 07-0016 Petition to Enforce Summons. This order was issued on June 7, 2007 by the District Court District of New Mexico and affirmed by the Circuit Court of the Tenth Judicial Circuit January 25, 2008:***

- ***a) Order restitution for loss of 266 days out of Mr. Ford's life at the rate of $20,000 per day.***
- ***b) Order any notion that Mr. Ford had been contemptuous of court be stricken from court records.***

***3. Petitioner prays for the rule of law and the ends of justice granting relief from void order at App.34 action 07-0016 Petition to Enforce Summons. This order was issued on March 24, 2008 by the District Court District of New Mexico and affirmed by the Circuit Court of the Tenth Judicial Circuit December 19, 2008:***

- ***a) Order that any 1040 substitute forms or any other returns filed on behalf of H. Clark Ford, III, for tax periods 1996-2006 held null, and of no effect.***
- ***b) Hold that Ford did not comply with the two obsolete summonses.***
- ***c) Hold that Summons Form 2039 is not and has not been authorized for Internal Revenue Usage.***

*4. Petitioner prays for the rule of law and the ends of justice granting relief from voidable order at App.36 action 07-0836 Application for Mandamus. This order was issued on January 8, 2008 by the District Court District of New Mexico and affirmed by the Circuit Court of the Tenth Judicial Circuit December 19, 2008. Mr. Ford prays the reopening of this case in order to:*

*a) Order Michael J. Pryor to offer proof of Summary Record Assessment following the guidelines as set forth in 26 C.F.R. § 301.6203-1 for tax period 1996-2006 to justify the taking of $100,000 Feb. 27, 2008.*

*Or*

*b) Admit that no Summary Record Assessment existed for the time period.*

*Or*

*c) Be held in contempt if he fails to comply with either "a or b."*

*5. Petitioner prays for the rule of law and the ends of justice granting relief from void holding by the Tenth Circuit Court. This order was issued January 5, 2009 imposing sanctions and litigation limitations (App.17):*

*a) Order litigation sanctions lifted from Mr. Ford allowing him to proceed pro se to pursue any point of law that has not been adjudicated to*

*finality in combined appeals 07-2162; 07-0836 and 08-2121*

b) *Order reimbursement of $8,000 to Mr. Ford to compensate him for having been wrongly sanctioned for filing a frivolous appeal upon a meritless holding under mandamus*

*Or*

*6. Order a show cause hearing to determine why the writ should not issue*

Respectfully submitted,

H. Clark Ford, III
PO Box 424
Hagerman, New Mexico
1-575-627-7086
1-575-625-2000

PUBLISH

**UNITED STATES COURT OF APPEALS**

**TENTH CIRCUIT**

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|---|---|
| H. CLARK FORD III,<br>Petitioner-Appellant,<br>v.<br>MICHAEL J. PRYOR, IRS Agent,<br>Respondent-Appellee. | No. 08-2034 |
| UNITED STATES OF AMERICA; INTERNAL REVENUE SERVICE;<br>Petitioners-Appellees,<br>v.<br>H. CLARK FORD III,<br>Respondent-Appellant. | No. 08-2121 |

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**APPEAL FROM THE**
**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF NEW MEXICO**
**(D.C. Nos 1:07-cv-00836-JCH-LFG and**
**1:07-MC-00016-JCH)**

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(Filed Dec. 19, 2008)

Submitted on the briefs:*

H. Clark Ford III, pro se.

Nathan J. Hochman, Assistant Attorney General, State of New Mexico, Jonathan S. Cohen, Christine D. Mason, Thomas J. Clark and Francesca U. Tamami, Attorneys, Tax Division, Department of Justice, Washington, D.C.

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Before **HOLMES**, **ANDERSON**, and **BALDOCK**, Circuit Judges.

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**ANDERSON**, Circuit Judge.

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H. Clark Ford III, proceeding pro se, appeals the district court's orders denying him relief relating to the attempts of the Internal Revenue Service (IRS) to assess and collect income taxes from him. These cases involve very similar facts and legal issues and we have elected to resolve them together in a single opinion. We exercise jurisdiction under 28 U.S.C. § 1291 and affirm the district court's judgments in both cases.

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* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

*A. Background*

The facts underlying both of these appeals were set forth in detail in this court's opinion resolving a prior appeal. *United States v. Ford*, 514 F.3d 1047, 1049-51 (10th Cir. 2008) ("*Ford I*").[1] Therefore, we provide only a brief background to frame the issues presented in the instant appeals.

The IRS issued two administrative summonses to Mr. Ford to determine his tax liability for 1996 through 2005. Mr. Ford concedes that he did not file traditional income-tax returns.[2] When Mr. Ford refused to comply with the summonses, the IRS filed a petition in district court for an order enforcing them. The district court ordered Mr. Ford to comply with the administrative summonses, and when he

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[1] Mr. Ford also filed an earlier appeal with this court. *Ford v. Bank of Am.*, No. 99-2368, 2000 WL 1028238, (10th Cir. Jul. 26, 2000) (unpublished).

[2] Although Mr. Ford objects to being called a tax protester, he is appropriately designated a tax protester because he protests the legality of the income tax, and his arguments stem from this position. For example, he argues that income taxes do not apply to him, *e.g.*, R. (No. 08-2121) at 47, he is not required to file tax returns on Form 1040, *id.* at 34, 40, 58, he is not required to comply with an IRS form that is obsolete and lacks an OMB number, *id.* at 34, defendant Pryor issued administrative summonses without delegated authority, *id.* at 39, and he is not subject to the income tax because he is a "non resident alien to the political jurisdiction of the United States," *id.* at 57. Such tax-protester arguments have long been held to be lacking in legal merit and frivolous. *See, e.g., Lonsdale v. United States*, 919 F.2d 1440, 1448 (10th Cir. 1990).

continued to refuse, the court found him in contempt and ordered him held in federal custody until he complied.

Mr. Ford appealed, requesting a writ of habeas corpus so he could be released from custody, arguing that he was not in contempt of court, and challenging the administrative summonses on various grounds. *Ford I*, 514 F.3d at 1051-53. This court transferred the habeas petition to the district court and affirmed the district court's orders. *Id.* at 1053.

While his first appeal was pending, Mr. Ford filed another action in the district court for a writ of mandamus directed to IRS employee Michael Pryor requiring him to provide Mr. Ford with Summary Record Assessments for tax years 1996 through 2006. The district court held that the IRS had provided Mr. Ford all of the information to which he was entitled, and granted summary judgment in favor of the IRS and revenue officer Pryor.[3] Mr. Ford appeals. This appeal was assigned number 08-2034.

*Ford I* was issued on January 25, 2008. On February 27, 2008, Mr. Ford complied with the administrative summonses and was released from custody. Accordingly, the district court dismissed the case with prejudice. Mr. Ford also appeals that ruling, and the appeal was assigned number 08-2121.

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[3] Although Mr. Ford named only Mr. Pryor as a defendant, the proper defendant was the IRS.

*B. Standards of Review*

The district court granted summary judgment to the IRS in appeal number 08-2034 and dismissed with prejudice the IRS's petition in appeal number 08-2121. In dismissing with prejudice, the district court considered evidence beyond the pleadings, a procedure to which Mr. Ford did not object, so we "review the dismissal under the standard applicable to an entry of summary judgment." *N. Natural Gas Co. v. Nash Oil & Gas, Inc.*, 526 F.3d 626, 629 n.1 (10th Cir. 2008).

We review a grant of summary judgment de novo. *Barrick Resources (USA) Inc. v. United States*, 529 F.3d 1252, 1256 (10th Cir. 2008). Summary judgment "should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). Although we view the evidence and draw reasonable inferences therefrom in the light most favorable to the nonmoving party, the nonmoving party must present more than a scintilla of evidence in favor of his position. *Grace United Methodist Church v. City of Cheyenne*, 451 F.3d 643, 649 (10th Cir. 2006). Because Mr. Ford is proceeding pro se, we construe his pleadings liberally, but we do not act as his advocate. *Weinbaum v. City of Las Cruces*, 541 F.3d 1017, 1029 (10th Cir. 2008).

*C. Analysis*

(1) Appeal No. 08-2034

The district court held that the Certificates of Assessments, Payments, and Other Specified Matters (referred to herein as "Summary Record Assessment") for the tax years 1996-2000, which were supplied to Mr. Ford on Form 4340, satisfied the requirements of 26 U.S.C. § 6203 (requiring the Treasury Secretary to "furnish the taxpayer a copy of the record of the assessment" upon request) and 26 C.F.R. § 301.6203-1 (setting forth the required contents of a summary record of assessment).[4] Consequently, the district court determined that Mr. Ford was not entitled to a writ of mandamus. Further, because Mr. Ford had received the information and notice to which he was entitled, the district court concluded that summary judgment in favor of the IRS was appropriate.

A federal district court has jurisdiction to issue a writ of mandamus "to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff." 28 U.S.C. § 1361. To be entitled to issuance of a writ of mandamus, Mr. Ford had to "show that [his] right to the writ [was] clear and indisputable." *In re Antrobus*, 519 F.3d 1123, 1124 (10th Cir. 2008) (quotation omitted).

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[4] Although Mr. Ford demanded a Summary Record Assessment for tax years 1996-2006, R. (No. 08-2034) Doc. 1, Ex. A, the Form 4340 provided to him pertained only to tax years 1996-2000 because at the time Mr. Ford made his request, the IRS had not conducted an assessment for the tax years 2001-2006.

On appeal, Mr. Ford contends that the district court erred in denying his petition for a writ of mandamus because (1) he was never informed of the date of the assessment or the date the assessment was signed by an assessment officer; (2) there was no date of original assessment, even though he demanded assessments for ten years; (3) the Summary Record Assessment did not contain "any information as to what type of tax debt [he] has incurred . . . or what kind of activity created this debt or at what point in time," Aplt. Opening Br. (No. 08-2034) at 4; (4) on the Summary Record Assessment his name was typed in all capital letters and included his social security number, which he had relinquished; (5) the Form 4340 provided to him was inadequate for the reasons stated in his arguments (1) through (4); and (6) he was denied discovery and a hearing. Although Mr. Ford also challenges any suggestion that he did not file income-tax returns for 1996 and later years, this issue is not relevant to the district court's holding that Mr. Ford was not entitled to a writ of mandamus.

Mr. Ford's arguments are without merit. Form 4340 contains the required information: "identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment." 26 C.F.R. § 301.6203-1. *See* R. (No. 08-2034) Doc. 11-3, at 2-41. It also includes the date of assessment, which is "the date the summary record is signed by an assessment officer." 26 C.F.R. § 301.6203-1. Courts, including this one,

have held that a Summary Record Assessment, provided on Form 4340, is "presumptive proof of a valid assessment." *March v. IRS*, 335 F.3d 1186, 1188 (10th Cir. 2003) (quotation omitted) (collecting cases). Mr. Ford has failed to produce any evidence on summary judgment to rebut this presumption. Moreover, his argument that Form 4340 is invalid because it reflects his social security number and shows his name in all capital letters is wholly frivolous.

Finally, Mr. Ford complains that the district court erred in granting summary judgment without first holding a hearing and without permitting him to engage in discovery. But he has made no showing that he requested additional time for discovery, nor has he "identified any issues on appeal that were compromised by the court's decision to base its ruling on the pleadings alone," *Ford I*, 514 F.3d at 1053. Accordingly, the district court's judgment is affirmed.

(2) Appeal No. 08-2121

In this appeal, Mr. Ford challenges the district court's determination that the case had concluded when Mr. Ford complied with the IRS summonses. Five of Mr. Ford's issues on appeal were decided against him in *Ford I*, 514 F.3d at 1049, 1052-53. They are: (1) there was no evidence that he failed to file tax returns; (2) that revenue officer Pryor did not have delegated authority to issue the administrative summonses; (3) the form used for the summonses, Form 2039, is obsolete and has been outlawed by the

IRS; (4) Mr. Ford was not in contempt of court; and (5) he was denied due process by the district court's ruling without a hearing and by the district court's denial of his motion to reconsider the order finding him in contempt of court. The holdings of *Ford I* are law of the case and must be followed in this appeal. *See Weston v. Harmatz,* 335 F.3d 1247, 1255 (10th Cir. 2003) (applying law-of-the-case doctrine, stating holding of prior appeal "must be followed by the appellate court in subsequent appeals").

Mr. Ford's remaining arguments are: (1) the District Court for the District of New Mexico lacked jurisdiction over him because his residence in New Mexico was not within a federal enclave and therefore he did not receive remuneration from within the United States; (2) the summonses did not identify him because his name was typed in all capital letters; and (3) the district court had no jurisdiction over him because he made only a "special appearance" in court.[5] This court has previously rejected Mr. Ford's "federal enclave" argument, *United States v. Chisum,* 502 F.3d 1237, 1243 (10th Cir. 2007) (noting this argument was rejected many years ago in *United States v. Collins,* 920 F.2d 619, 629 (10th Cir. 1990)),

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[5] Mr. Ford also complains that the IRS impugned his character by implying that he "runs with a lowly crowd of tax protesters," Aplt. Opening Br. (No. 08-2121) at 16, and that the district court did not acknowledge that upon his release from federal custody in February 2008, he paid the IRS $100,000. These complaints are not relevant to the issues on appeal.

*cert. denied,* 128 S. Ct. 1290 (2008), and we do so again here. Similarly, we have held above that his argument pertaining to typing his name in all capital letters is wholly frivolous.

We also reject Mr. Ford's contention that the district court did not have personal jurisdiction over him because he entered a "special appearance." He does not refute that on March 20, 2007, he was personally served with the IRS's First Petition to Enforce IRS Summons and Order to Show Cause. R. (No. 08-2121) Doc. 3, Ex. A. Mr. Ford's mere characterization of his appearance as "special" does not refute personal jurisdiction. Accordingly, we hold that the IRS met its burden of establishing that the federal district court had personal jurisdiction over Mr. Ford. *See Dudnikov v. Chalk & Vermilion Fine Arts, Inc.,* 514 F.3d 1063, 1069 (10th Cir. 2008) (stating "plaintiffs bear the burden of establishing personal jurisdiction"). The district court's judgment in this appeal is affirmed, as well.

*D. Findings of Frivolousness*

We have affirmed the district court's judgment in each of these appeals. In addition, we hold that both appeals are frivolous, bordering on vexatious, and brought to delay and obstruct. "An appeal is frivolous when the result is obvious, or the appellant's arguments of error are wholly without merit." *Braley v. Campbell,* 832 F.2d 1504, 1510 (10th Cir. 1987) (quotation omitted).

In appeal number 08-2034, Mr. Ford has repeated his arguments made to the district court without any showing that the district court erred. Furthermore, he has provided no reasoned argument or evidence that the Form 4340 failed to provide the necessary information or that he was entitled to a writ of mandamus. His arguments in appeal number 08-2121 were either rejected in *Ford I,* or are so patently without merit to be frivolous. Accordingly, we conclude that the results in both appeals are obvious, that Mr. Ford's arguments are wholly without merit, and that these appeals were brought to delay further the collection of his federal income tax liability.

*E. Monetary Sanctions and Filing Restrictions*

(1) Monetary Sanctions

The IRS has filed a motion for sanctions in appeal number 08-2034, requesting $8,000 to compensate it for attorney fees expended, arguing that the appeal is frivolous. This court has the power to award just damages and single or double costs if the court "determines that an appeal is frivolous" or brought for purposes of delay. Fed. R. Civ. P. 38; 28 U.S.C. § 1912; *accord Stafford v. United States,* 208 F.3d 1177, 1179 (10th Cir. 2000). Mr. Ford has had notice and an opportunity to respond, as required by *Braley,* 832 F.2d at 1514. He has responded, but he has not objected to the amount requested.

In support of its request for attorney fees, the IRS has filed a declaration documenting $9,661.63 in attorney fees expended in this matter, but has modified its request to $8,000. Having held that the appeal is frivolous, we conclude that under these circumstances just damages are $8,000, and we award that amount to the IRS. We expressly note that this award is not meant to establish a presumptive or flat-fee sanction to be used in all frivolous tax appeals.

(2) Filing Restrictions

"Federal courts have the inherent power to regulate the activities of abusive litigants by imposing carefully tailored restrictions in appropriate circumstances." *Andrews v. Heaton,* 483 F.3d 1070, 1077 (10th Cir. 2007). An injunction limiting further filings may be imposed "where the litigant's lengthy and abusive history is set forth; the court provides guidelines as to what the litigant may do to obtain its permission to file an action; and the litigant receives notice and an opportunity to oppose the court's order before it is implemented." *Id.*

As discussed, Mr. Ford has filed three appeals to challenge the district court's rulings denying his challenges to the attempts to assess and collect income taxes for the years 1996 to 2005. (*Ford I* and the two instant appeals). In addition, he filed an earlier appeal challenging a district court's dismissal of his claims against various banks and bank personnel because they refused to open an account for him

unless he provided his social security number. *Ford v. Bank of Am.*, 2000 WL 1028238. There, this court held that the Privacy Act did not apply to the defendants and that Mr. Ford "failed to allege the requisite search or seizure or invasion of his privacy rights" to state a claim under the Fourth Amendment. *Id.* at *2. Accordingly, the dismissal was affirmed. *Id.* at *3. While this court did not deem that appeal frivolous, Mr. Ford's claims in that case, similar to one of his claims here, stemmed from his insistence that "he is detached from any form of Social Security number," Aplt. Opening Br. (No. 08-2034) at 3.

This court has ordered comprehensive filing restrictions on litigants who have repeatedly abused the appellate process. *See, e.g., Winslow v. Hunter (In re Winslow),* 17 F.3d 314, 316 (10th Cir. 1994) (per curiam) (noting Winslows had filed seventeen matters in appellate court, imposing blanket filing restriction unless specified conditions met). But a distinction has been made between indiscriminate filers and those who have limited their repetitive filings to a particular subject. *See, e.g., Sieverding v. Colo. Bar Ass'n,* 469 F.3d 1340, 1345 (10th Cir. 2006). Under those circumstances, the filing restrictions have been limited to the subject matter of the previous lawsuits. *See Andrews,* 483 F.3d at 1077 (noting appellant filed five frivolous appeals in three separate cases, restricting plaintiff from filing future matters related to the subject matter of his earlier federal lawsuits). In *Andrews,* this court determined that the plaintiff-appellant's litigation history did not "(at least as yet)

suggest that [he was] likely to abuse the legal process in connection with other persons and subject matters and thus does not support restricting [his] access to the courts in *all* future *pro se* proceedings pertaining to *any* subject matter and *any* defendant." *Id.* In *Sieverding,* this court noted that the plaintiff-appellant "has not filed litigation against random persons or entities," and modified the filing restrictions to apply only to the subject matter of her previous litigation. *Sieverding,* 469 F.3d at 1345.

Similarly, Mr. Ford's appellate filings warrant imposing filing restrictions limited to the claims brought in his prior appeals, and arguments related to those claims. He has filed three appeals in the same case, and has attempted to raise frivolous issues that are foreclosed by *Ford I* and other Tenth Circuit law. In his 2000 appeal, he sued various entities claiming they violated various laws by declining to do business with him because he refused to provide his social security number.

Therefore, Mr. Ford is restricted from filing any further pro se filings with this court raising claims decided in his prior appeals, *Ford v. Bank of Am.*, No. 99-2368, 2000 WL 1028238, (10th Cir. Jul. 26, 2000) (unpublished), *United States v. Ford,* 514 F.3d 1047, 1049-51 (10th Cir. 2008), or these two appeals, appeal number 08-2034 and appeal number 08-2121. In addition, this court will not accept any further pro se appeals or original proceedings filed by Mr. Ford that raise claims related to the claims brought in his prior appeals. The Clerk of this court shall return any such

filings, unfiled, to Mr. Ford. These filing restrictions are limited to civil filings; they do not apply to criminal matters.

Mr. Ford shall have ten days from the date of this opinion to file written objections to these proposed filing restrictions. His response shall be limited to fifteen pages. If Mr. Ford does not file an objection, the filing restrictions shall take effect twenty days from the date of this opinion. If Mr. Ford does file timely objections, these filing restrictions shall only take effect if the court rules against Mr. Ford and rejects his objections. The filing restrictions shall apply to any matter filed after that ruling.

*F. Conclusion*

The IRS's motion to dismiss the appeal as moot is DENIED. The IRS's motion for sanctions is GRANTED, and sanctions in the amount of $8,000 are awarded to the IRS. Mr. Ford's objections, if any, to the proposed filing restrictions described above are due within ten days of this opinion. The judgment of the district court in each case is AFFIRMED.

**UNITED STATES COURT OF APPEALS**
**FOR THE TENTH CIRCUIT**

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| H. CLARK FORD III,<br>Petitioner-Appellant,<br>v.<br>MICHAEL J. PRYOR, IRS Agent,<br>Respondent-Appellee. | No. 08-2034<br>(D.C. No. 1:07-CV-00836-JCH-LFG)<br>(D. N.M.) |
| UNITED STATES OF AMERICA; INTERNAL REVENUE SERVICE;<br>Petitioners-Appellees,<br>v.<br>H. CLARK FORD III,<br>Respondent-Appellant. | No. 08-2121<br>(D.C. No. 1:07-MC-00016-JCH)<br>(D. N.M.) |

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**ORDER**

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(Filed Jan. 5, 2009)

Before HOLMES, ANDERSON, and BALDOCK, Circuit Judges.

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In the opinion filed December 19, 2008, affirming the district court's judgment in both of these

appeals, this court granted the motion for monetary sanctions of $8,000 filed by the Internal Revenue Service (IRS) in appeal number 08-2034. *Ford v. Pryor*, ___ F.3d ___, 2008 WL 5264730, at *4 (10th Cir. Dec. 19, 2008). In addition, this court proposed filing restrictions on H. Clark Ford III's future appellate pleadings, and granted Mr. Ford ten days to file written objections to the proposed restrictions. *Id.* at *4-5. Mr. Ford has filed objections to both the monetary sanction and the filing restrictions.

Upon consideration, Mr. Ford's objections are overruled. Consequently, the $8,000 monetary sanction is now due and payable to the IRS. In addition, the filing restrictions set forth in this court's December 19 opinion are in effect.

Entered for the Court,

/s/ Elisabeth A. Shumaker
ELISABETH A. SHUMAKER,
Clerk

PUBLISH

**UNITED STATES COURT OF APPEALS**

**TENTH CIRCUIT**

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| UNITED STATES OF AMERICA; INTERNAL REVENUE SERVICE,<br>Petitioners-Appellees,<br>v.<br>H. CLARK FORD III,<br>Respondent-Appellant. | No. 07-2162 |

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**APPEAL FROM THE**
**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF NEW MEXICO**
**(D.C. No. MC-07-16-JH)**

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(Filed Jan. 25, 2008)

Submitted on the briefs:*

H. Clark Ford, III, Pro Se, for Respondent-Appellant.

Richard T. Morrison, Acting Assistant Attorney General (Thomas J. Clark and Francesca U. Tamami

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* At the parties' request, the case is unanimously ordered submitted without oral argument pursuant to Fed. R.App. P. 34(f) and 10th Cir. R. 34.1(G).

with him on the briefs), Department of Justice, Tax Division, Washington D.C., for the Petitioners-Appellees.

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Before BRISCOE, BALDOCK, and LUCERO, Circuit Judges.

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LUCERO, Circuit Judge.

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H. Clark Ford, III, proceeding pro se, appeals from a district court's decision to hold him in civil contempt following his failure to comply with a court order enforcing two summonses issued by the Internal Revenue Service ("IRS"). Because Ford raises only frivolous arguments regarding why he should not comply with the district court's enforcement order, and because Ford may end his incarceration for contempt at any time by tendering compliance, we conclude that the district court did not abuse its discretion in holding Ford in civil contempt. Exercising jurisdiction under 28 U.S.C. § 1291, we **AFFIRM**.

I

Since 2001, if not earlier, Ford has failed to file traditional federal income tax returns with the IRS.[1] As a result of this failure, IRS Revenue Officer Michael Pryor issued two summonses to Ford in August 2006. Those summonses requested that Ford testify before the IRS and that he provide documentation related to his income for the years 2001 through 2005, as well as records relating to his assets and liabilities for the period August 1, 2005, through July 31, 2006. Raising several objections to the IRS's authority to make tax assessments against him and to issue the summonses, Ford refused to provide the IRS with the requested testimony and documentation.

Following Ford's refusal, the IRS referred the matter to the United States Attorney's Office, which also sought Ford's cooperation by a letter sent in February 2007. Ford again indicated that he would not comply with the summonses. As a result of this recalcitrance, the government instituted the current action against Ford in March 2007, petitioning the district court for an order requiring Ford's compliance with the summonses issued. *See* I.R.C. § 4602(b) (providing mechanism for IRS to enforce administrative summonses in district court); *see generally United States v. Powell*, 379 U.S. 48, 57-58 (1964)

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[1] According to the IRS, Ford also has a delinquent federal tax liability going back to 1996.

(discussing process for IRS to enforce administrative summonses); *United States v. Balanced Fin. Mgmt., Inc.*, 769 F.2d 1440, 1443-45 (10th Cir. 1985) (same).

After a hearing on the government's petition and Ford's written response, the district court entered an order on April 23, 2007 ("April Order"), requiring Ford to appear before the IRS on May 2, 2007, and provide the testimony and documentation requested by the IRS in its two summonses. The court specifically warned Ford that his failure to comply with the order would result in further enforcement proceedings against him. Ford subsequently filed a motion for reconsideration of the court's enforcement decision, essentially restating the same arguments he had presented in his original answer to the government's petition and at the hearing before the district court. The district court denied the motion on June 7, 2007, again concluding that Ford's arguments were without legal merit.[2]

On May 2, 2007, Ford appeared before the IRS in accordance with the district court's April Order. He did not, however, provide Pryor with any responsive

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[2] In its order denying Ford's request for reconsideration, the district court specifically instructed Ford that, "[t]o avoid future sanctions and inform himself of what the law actually requires," Ford should "carefully read and consider the Tenth Circuit's opinion in [*Lonsdale v. United States*, 919 F.2d 1440 (10th Cir. 1990)] and the law review article by Danshera Cords, *Tax Protestors and Penalties. Ensuring Perceived Fairness and Mitigating System Costs*, 2005 B.Y.U. L. Rev. 1515 (2005), and revise his behavior."

testimony or documents. Ford instead chose to leave the meeting after Pryor informed him that he was free to do so if he was not going to answer Pryor's questions. Believing that Ford's actions at the May 2, 2007 meeting constituted noncompliance with the court's April Order, the government filed a second petition to enforce the original summonses. Unlike the first petition, however, this second petition asked the district court to hold Ford in civil contempt for his failure to comply with the court's earlier order. It also requested that Ford be arrested and held in federal custody until such time as Ford complied with the order.

In response to the government's second petition, the district court issued an order to show cause, requiring Ford to appear at a hearing on June 7, 2007,[3] and explain his alleged failure to comply with the April Order. At that hearing, the district court asked Ford to explain why he had not provided the requested testimony and documents. Ford responded at length, contending that the court lacked jurisdiction over him, that he had filed sufficient "returns" for the years in question, that he had the right to demand certain information from the IRS, that he was being forced to fraudulently supply a social security number, that he had no obligation to keep tax records, and that the summonses were irrelevant

[3] The district court issued its decision to deny Ford's motion for reconsideration several hours before commencement of the June 7, 2007 hearing on the show cause order.

and invalid. Unmoved by these arguments, and finding that Ford had no valid basis for disobeying the court's April Order, the district court held Ford in civil contempt and ordered that he be taken into federal custody immediately. *See* 18 U.S.C. § 401 ("A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, . . . as . . . (3) [d]isobedience or resistance to its lawful writ, process, order, rule, decree, or command."); *United States v. Riewe*, 676 F.2d 418, 421 (10th Cir. 1982) ("A taxpayer's failure to show cause . . . will justify the entry of a civil contempt order.") (citation omitted).

Later that same day, the court issued a written order directing that Ford be held in federal custody until he complies with the two summonses by providing the requested testimony and information. In an effort to end the impasse, however, the court also directed the government to immediately contact Ford to attempt to obtain the information. Although the government did so, Ford again withheld his compliance, and he continues to do so through the present date.[4]

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[4] The district court also ordered the government to provide weekly status reports regarding the IRS's efforts to obtain Ford's compliance with the April Order. Since Ford's arrest on June 7, 2007, the government has submitted the requested status reports. Each of those reports indicates that Ford continues to be unwilling to comply with the IRS summonses as ordered.

Several weeks after his initial incarceration, Ford filed a timely notice of appeal from the district court's decisions to enforce the IRS summonses and hold him in civil contempt. Ford also filed a request for release on his own recognizance with the district court. On November 2, 2007, the district court denied that request, but ordered that Ford be conditionally released "on submission of a cash bond payable to the IRS in the amount of $104,115.67." If Ford chose to submit the bond, in lieu of continued incarceration, the court required Ford also to pay "a $100/day fine, payable to the IRS, for each day [he] continues to refuse to obey the Court's April Order, guaranteed by the cash bond." Ford has declined to post the requested bond, asserting that if he did, he would concede that the district court had jurisdiction over him and that he would then become a participant in the fraud perpetrated against him by Pryor.

On December 21, 2007, we denied Ford's motion for release pending appeal because it appeared that the issues raised in the appeal were frivolous. We did, however, grant his request for an expedited appeal.

## II

In his appeal, Ford requests a writ of habeas corpus so that he can be released from his incarceration. He also challenges the district court's order finding him in civil contempt, and the district court's rejection of two of the arguments he raised in protest of the IRS summonses.

A

Ford first requests that this court grant his application for "the grand writ of habeas corpus." We decline to do so because Ford's request is not properly before this court. *See* Fed. R. App. P. 22(a) ("An application for a writ of habeas corpus must be made to the appropriate district court. If made to a circuit judge, the application must be transferred to the appropriate district court."). We instead direct that his request be transferred to the United States District Court for the District of New Mexico.

B

Ford next challenges the district court's order to hold him in civil contempt, arguing that the district court abused its discretion in entering the contempt order because there was no clear and convincing evidence that Ford had violated the April Order. We disagree.

"We review a district court's determination of civil contempt for abuse of discretion." *FTC v. Kuykendall*, 371 F.3d 745, 756 (10th Cir. 2004). A district court abuses its discretion if the "court's adjudication of the contempt proceedings is based upon an error of law or a clearly erroneous finding of fact." *John Zink Co. v. Zink*, 241 F.3d 1256, 1259 (10th Cir. 2001). As the moving party in this case, the IRS had the initial "burden of proving, by clear and convincing evidence, that a valid court order existed, that the defendant had knowledge of the order, and that the defendant

disobeyed the order." *Reliance Ins. Co. v. Mast Constr. Co.*, 159 F.3d 1311, 1315 (10th Cir. 1998) (citation omitted). Once the IRS made that showing, the burden then shifted to Ford to show either that he had complied with the order or that he could not comply with it. *See United States v. Rylander*, 460 U.S. 752, 757, (1983) (stating that, in an action to enforce an IRS summons, the burden of production is on the taxpayer to show that compliance is impossible).

In advancing his evidentiary argument, Ford first asserts that a declaration from Pryor, submitted in conjunction with the government's second petition to enforce the summonses, did not provide clear and convincing proof of Ford's failure to comply with the April Order. His argument is meritless. Our review of Pryor's declaration convinces us that the information presented therein was more than sufficient to show that Ford failed to comply with the April Order. That declaration specifically states that Ford did not provide any responsive testimony or documentation when he met with Pryor on May 2, 2007.[5]

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[5] In a related argument, Ford tells us that Pryor's declaration constituted inadmissible hearsay, and that the district court erred in relying on it to hold him in contempt. We also reject this contention. Pryor's declaration specifically mentioned statements made by Ford himself, which comfortably places any asserted hearsay within the document under the party-admission exclusion to the general hearsay rule. *See* Fed.R.Evid. 801(d)(2).

Nevertheless, even if we were to conclude that Pryor's declaration was insufficient without more, Ford's own statements at the June 7, 2007 hearing demonstrate that he did not provide either the requested testimony or the documentation sought by the IRS. Additionally, in his written answer to the government's second petition, Ford specifically confirms Pryor's assertion that "Ford has not provided any of the information requested in either IRS summons." Nor does Ford argue on appeal that he did provide this information. He instead claims that he substantially complied with the April Order by appearing before Pryor. Like the district court, we consider his alleged "compliance" to be deficient. A mere appearance before the IRS is insufficient in light of the court's order that Ford testify and provide the requested records. Ford also had ample opportunity at the show cause hearing to articulate his own position regarding what occurred at the May 2, 2007 meeting with Pryor. The district court asked him no less than four times to explain himself. In response to the court's questioning, Ford advanced no valid reason for refusing to provide the IRS with the requested testimony or documentation. He instead chose to reassert several frivolous arguments from his quiver of tax protestor contentions.

Without any evidence offered by Ford to rebut Pryor's declaration, the district court appropriately concluded that the clear and convincing evidence demonstrated Ford's failure to comply with the court's April Order. The district court thus did not abuse its

discretion in ordering that Ford be held in civil contempt until such time as he tenders compliance with the April Order.

C

Ford also raises a claim that the district court violated his due process rights by finding him in contempt before holding a "full evidentiary hearing" to address whether Ford had complied with the April Order. In light of the June 7, 2007 show cause hearing, this argument is meritless. The very purpose of that hearing was to determine whether Ford had violated the April Order. Again, the court repeatedly asked Ford at the hearing to explain his refusal to provide the requested testimony and documents when he met with Pryor. Rather than respond with any factual explanation, Ford instead chose to reassert the same irrelevant arguments as to why he did not believe he should comply with the summonses – arguments already rejected by the district court in the previous hearing. Ford cannot now complain that he was not given an opportunity to present his version of events.[6]

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[6] We also reject Ford's argument that the district court violated his due process rights by failing to provide an opportunity for Ford to cross-examine Pryor regarding the content of his declaration. Ford did not ask the district court for such an opportunity. Additionally, as previously noted, Ford had ample opportunity to present the court with his version of what occurred at the May 2, 2007 meeting. In relating what happened

(Continued on following page)

In a related argument, Ford claims that the district court denied him due process of law when it refused to hold a hearing on Ford's motion for reconsideration of the April Order, and instead decided the issues presented solely by reference to the pleadings. We again disagree. Ford did not provide the district court with a reason to conduct such a hearing. To the contrary, all of the issues raised by Ford in his motion for reconsideration were legal in nature, ripe for decision on the pleadings presented. We also note that Ford has not identified any issues on appeal that were compromised by the court's decision to base its ruling on the pleadings alone. *See Thornburg v. Mullin*, 422 F.3d 1113, 1142 (10th Cir. 2005) (holding that a district court did not err in denying a request for an evidentiary hearing where the movant made no showing of what evidence would be adduced or how it would be relevant).

## D

In his final contention on appeal, Ford alleges that the district court erred in rejecting two of the arguments Ford advanced against the government's original petition for enforcement. He asserts that Pryor did not have delegated authority to issue the summonses, and that the form on which the summonses

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in his answer to the government's second petition, Ford himself admitted that he had not provided any responsive documents or testimony. His admission was sufficient, standing alone, to justify the court's decision to hold him in contempt.

appear, IRS Form 2039, is obsolete and has been outlawed by the IRS.

Ford's claims are nothing more than oft-repeated tax protestor arguments that have long been rejected by the federal courts as "patently frivolous." *See Lonsdale v. United States*, 919 F.2d 1440, 1448 (10th Cir. 1990). We reject them again today. Ford's assertion that Pryor did not have delegated authority to issue the summonses has previously been deemed meritless by this circuit. *See id.* (including in a list of meritless arguments the claim that employees of the IRS "have no power or authority to administer the Internal Revenue laws, including power to issue summons"); *see also* I.R.C. §§ 7602(a)(1)-(2) & 7701(a)(12)(A)(I); 26 C.F.R. §§ 301.7602-1(b) & 301.7701-9(b)-(c). Similarly, "the fact that the IRS issued the summonses on Form 2039 does not render those summonses invalid." *Remark v. United States*, 979 F.2d 770, 771 (9th Cir. 1992). In short, neither of Ford's protest arguments is availing. The district court therefore did not err in issuing the April Order requiring Ford to provide the requested testimony and documentation to the IRS, or in denying Ford's motion to reconsider.

## III

Like the district court, we once again remind Ford that he holds the proverbial keys to the prison doors. He himself can choose to end his incarceration at any point in time, by simply complying with the IRS requests.

Ford's application for a writ of habeas corpus is **DISMISSED** as improperly made to this court and is ordered transferred to the United States District Court for the District of New Mexico for consideration. The judgment of the district court is **AFFIRMED**.

# UNITED STATES COURT OF APPEALS
# FOR THE TENTH CIRCUIT

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| UNITED STATES OF AMERICA; INTERNAL REVENUE SERVICE,<br><br>Petitioners-Appellees,<br><br>v.<br><br>H. CLARK FORD III,<br><br>Respondent-Appellant. | No. 07-2162<br>(D.C. No. MC-07-16-JH) |

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## JUDGMENT

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(Filed Jan. 25, 2008)

Before BRISCOE, BALDOCK, and LUCERO, Circuit Judges.

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This case originated in the District of New Mexico and was submitted on the briefs at the direction of the court.

The judgment of that court is affirmed.

Entered for the Court,

/s/ Elisabeth A. Shumaker

ELISABETH A. SHUMAKER,
Clerk

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA and INTERNAL REVENUE SERVICE,

Petitioners,

vs.

H. CLARK FORD III,

Respondent.

Misc. No. 07-16 JH

**ORDER DISMISSING CASE**

(Filed Mar. 24, 2008)

**THIS MATTER** comes before the Court on the Petitioners' Motion to Dismiss this action with prejudice, filed February 29, 2008 [Doc. 65], Respondent H. Clark Ford III's response to Petitioners' Motion to Dismiss, filed March 13, 2008 [Doc. 67], and Respondent H. Clark Ford III's motion for a hearing on the matter, filed March 21, 2008 [Doc. 68].

The cause of action came before the Court solely on the Defendants' Petition to Enforce IRS Summons. *See* Doc. 1. The Court granted the petition, and when Respondent refused to comply with the Court's Order, the Court granted the Petitioners' Second Petition to Enforce IRS summonses and held the Respondent in contempt. *See* Doc. 19. Respondent appealed from the Court's Order, and the Tenth Circuit affirmed the Court's rulings. On February 27, 2008, the parties

filed a stipulated motion showing that Ford ultimately obeyed the Court's Order regarding the two petitions to enforce, and the Court ordered Respondent's release from incarceration that same day. *See* Doc. 64.

The orders enforcing the petitions have been satisfied and the action is now ripe for dismissal. Because the issue regarding whether the action should be dismissed is one purely of law, and the parties have briefed the issue, there is no need for a hearing on the matter. Respondent gives no cogent reason for not dismissing the action.

**IT IS ORDERED** that the Motion to Dismiss the cause of action [Doc. 65] is GRANTED; the Motion for Setting [Doc. 68] is DENIED; all pending motions are denied as MOOT; and the cause of action is DISMISSED WITH PREJUDICE, with the parties to bear their own costs.

/s/ Judith C. Herrera
UNITED STATES
DISTRICT JUDGE

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW MEXICO**

H. CLARK FORD III,

Applicant,

vs. Civ. No. 07-0836 JH/LFG

AGENT MICHAEL PRYOR #84-10124,

Respondent.

**ORDER DENYING PETITION FOR WRIT OF MANDAMUS**

**THIS MATTER** comes before the Court on Respondent Michael Pryor's Amended Motion for Summary Judgment, filed 11/26/07 (Doc. 14); on H. Clark Ford III's Motion for Hearing filed 12/10/07 (Doc. 21); and on Mr. Ford's Motion to Amend Application filed December 19, 2007 (Doc. 25). Mr. Pryor, who is a revenue officer for the IRS, contends, *inter alia,* that Mr. Ford is not entitled to a writ of mandamus as a matter of law because the IRS has already provided Mr. Ford with all of the tax-assessment information he is entitled to receive. *See* 26 C.F.R. § 301.6203-1 (providing that an assessment is made "by an assessment officer signing the summary record of assessment," and that, "[i]f the taxpayer requests a copy of the record of assessment, he shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer,

the date of assessment, the character of the liability assessed, the taxable period, if applicable, and the amounts assessed"). Mr. Pryor asserts that, as a matter of law, he has fulfilled his statutory ministerial duty to produce to Mr. Ford the assessment information he has requested. *See* 26 U.S.C. § 6203 ("The assessment shall be made by recording the liability of the taxpayer . . . in accordance with rules or regulations prescribed by the Secretary. Upon request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment."). The Court agrees and will grant Respondent's motion for summary judgment, deny the motion to amend, and deny and dismiss the petition for a writ of mandamus.

Mr. Ford brought his mandamus petition under 28 U.S.C. § 1361, which provides, "[t]he district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff."

> To be eligible for mandamus relief, the petitioner must establish (1) that he has a clear right to relief, (2) that the respondent's duty to perform the act in question is plainly defined and peremptory, and (3) that he has no other adequate remedy. Once the petitioner has established the prerequisites of mandamus relief, the court may exercise its discretion to grant the writ.

*Rios v. Ziglar,* 398 F.3d 1201, 1206 (10th Cir. 2005) (citation omitted). Thus, "[t]o secure mandamus

relief, the petitioner must show a clear and indisputable right to the writ." *Id.* at 1208 (internal quotation marks omitted).

Under Rule 56 of the Federal Rules of Civil Procedure, summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c); *see Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

Mr. Ford requested copies of the records of assessment used to impose tax deficiencies against him for tax years 1997-2006 or notice that no assessments existed. It is undisputed that the IRS has sent to Mr. Ford Forms 4340, "Certificates of Assessments and Payments" for the tax years 1996-2000. *See* Doc. 14, Ex. 2. Mr. Pryor also submitted an affidavit swearing that

> Ford has not filed federal income tax returns for tax year 2001 through 2006 and has refused to provide information concerning his income and expenses for tax years 2001 through 2005 despite being summoned by the IRS and ordered by the Court to do so. Accordingly, the IRS has not yet assessed any tax liabilities for his 2001 through 2006 tax years, and there is not yet any record of assessment to be provided to Mr. Ford for those tax years.

*Id.* Ex. 1 at 2.

A review of the certificates of assessment for 1997-2000 produced to Mr. Ford establishes that the certificates show "the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, . . . and the amounts assessed," 26 C.F.R. § 301.6203-1. But Mr. Ford contends that the information is not sufficient, arguing first that "the information provided is nothing more than an accounting of assessments on penalties" and that the IRS has not produced the "original assessment." Ford's Resp. (Doc. 19) at 2. Contrary to his contention, however, the first four documents in Ex. 1 show the bases for the original assessments and not just for penalties.

Mr. Ford makes two frivolous arguments the Court has already rejected in case number 07mc16. First, he contends that the assessments are not valid because the forms contain his name printed in all capital letters, thereby creating a "legal fiction" that is not Mr. Ford. Printing Mr. Ford's name in capital letters does not create a different legal entity and does not make it any less his name, however, and the assessments are not invalid on that basis. He also contends that he does not have a social security number – having unilaterally informed the government that he has rejected his assigned number – and that because the certificates of assessment have the social security number on them that the government issued to him, they are invalid. The Court finds this argument to be completely specious.

Mr. Ford contends that the certificates of assessments are not valid because they are not signed by the officer who prepared them. But the relevant regulation provides that the IRS must only provide a copy of *specific information* taken from the record of assessment; it does not require reproduction of the actual document containing the assessor's signature. *See* 26 C.F.R. § 301.6203-

1. The Tenth Circuit has noted that

> the courts have generally held that the IRS need not provide a taxpayer with a copy of the actual Summary Record of Assessment. Instead, the courts have held that the IRS may submit Certificates of Assessments and Payments on Form 4340. Form 4340 details the assessments made and the relevant date that a Summary Record of Assessment was executed. The courts have also held that these Certificates on Form 4340 are presumptive proof of a valid assessment.

*March v. I.R.S.*, 335 F.3d 1186, 1188 (10th Cir. 2003) (internal quotation marks omitted). Further, "production of a Form 4340 creates a presumption that a Summary Record of Assessment was validly executed and certified." *Id.* at 1189. And the Tenth Circuit has specifically held that the IRS does not have to additionally produce the assessment document containing the assessment officer's signature showing that he made the assessment under oath. *See Goodman v. United States*, 185 Fed. Appx. 725, 729 (10th Cir. 2006) (unpublished).

Finally, although Mr. Ford contends that he has not been given information showing the character or type of tax liability incurred, Form 4340 clearly states at the top of the form: "Type of Tax: U.S. Individual Income Tax Return" and "Form: 1040," showing that it reports an assessment of his liability for individual federal income taxes. *See, e.g.*, Doc. 14, Ex. 2 at 3.

There is no need for a hearing on this matter. *See* D.N.M. LR-Civ. 7.8 ("A motion will be decided on the briefs unless the Court sets oral argument."). Because Respondent has conclusively established that the IRS has provided to Mr. Ford all that it is statutorily required to provide, Mr. Ford has not, and can not, show a clear and indisputable right to a writ of mandamus. Accordingly, the Court will grant the motion for summary judgment, deny Mr. Ford's motion to amend the petition for mandamus relief to include the IRS as a named party, and deny the petition for mandamus.

**NOW, THEREFORE**, Respondent's Motion for Summary Judgment (Doc. 14) is **GRANTED** and Mr. Ford's Motion for a Hearing (Doc. 21) and Motion to Amend (Doc. 25) are **DENIED**. The Petition for Writ of Mandamus is **DISMISSED** with prejudice.

Dated this 8th day of January, 2008.

**IT IS SO ORDERED.**

/s/ [Illegible]
UNITED STATES
DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

H. CLARK FORD III,

Plaintiff,

vs.

MICHAEL J. PRYOR, IRS Agent, UNITED STATES OF AMERICA, INTERNAL REVENUE SERVICE,

Defendants.

CIVIL NO. 07-836 CG/LFG

**ASSIGNMENT TO ADMINISTRATIVE TRACK AND TEMPORARY STAY OF DISCOVERY**

(Filed Nov. 21, 2007)

THIS MATTER is before the Court *sua sponte*. This case should be assigned to the "Administrative" case management track pursuant to the district's Civil Justice Expense and Delay Reduction Plan. Case are assigned to this case management track when, based on the Court's review of the pleadings and its experience, a preliminary determination is made that all or a significant portion of the case is amenable to resolution by way of motion.

The United States filed a motion to dismiss or for summary judgment [Doc. 11] on November 9, 2007. When cases are assigned to the Administrative track, no discovery is permitted unless the Court specifically authorizes discovery. The stay of discovery

is consistent with the cost-savings of the Civil Justice Reform Act, 28 U.S.C. § 471 *et seq*.

Accordingly, no discovery will be permitted unless a party requests specific discovery, by way of motion, and is able to demonstrate why that discovery is necessary. *Ben Ezra, Weinstein & Co. v. American Online, Inc.*, 206 f.3d 980, 987 (10th Cir.), *cert. denied*, 531 U.S. 824 (2000). The stay will remain in place pending the trial court's consideration and disposition of Defendant's motion to dismiss or for summary judgment.

If the motion is denied, the case will be reassigned from the Administrative track to a "Standard" case management track with a 90-day discovery schedule.

IT IS SO ORDERED.

/s/ Lorenzo F Garcia
Lorenzo F. Garcia
Chief United States
Magistrate Judge

**IN THE DISTRICT COURT**

**OF THE UNITED STATES**

**FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA and INTERNAL REVENUE SERVICE,

Petitioners,

vs.

H. CLARK FORD III,

Respondent.

Misc. No. 07-16 JH

and

H. CLARK FORD III,

Applicant,

vs.

AGENT MICHAEL PRYOR #84-10124,

Respondent.

Civ. No. 07-0836 BB/LFG

**ORDER DECONSOLIDATING CASES**

(Filed Sep. 21, 2007)

**THIS MATTER** comes before the Court *sua sponte* to reconsider the order consolidating these two cases into case number 07-mc-16 JH. It has come to the Court's attention that consolidation of a civil case into a miscellaneous case is not procedurally proper.

**IT IS THEREFORE ORDERED** that the parties shall submit all future court pleadings, documents,

and correspondence under their respective case numbers, but both cases shall remain assigned to Judge Herrera for judicial economy.

/s/ Judith C. Herrera
JUDITH C. HERRERA
United States District Judge

**IN THE DISTRICT COURT**
**OF THE UNITED STATES**
**FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA and INTERNAL REVENUE SERVICE,

Petitioners,

Misc. No. 07-16 JH

vs.

H. CLARK FORD III,

Respondent.

**MEMORANDUM OPINION and ORDER**

(Filed Jun. 7, 2007)

**THIS MATTER** comes before the Court on Respondent H. Clark Ford III's Motion for Relief from Void Order Based Upon Rule 60(b)(4) for Lack of Jurisdiction and Rule 60(b)(3) Fraud Upon the Court in Affidavit Form with Memorandum of Law in Support, filed May 1, 2007 (Doc. 8). Mr. Ford seeks reconsideration of the Court's order requiring him to "provide testimony and documents requested in the two IRS Summons served upon Mr. Ford." April 23, 2007 Order at 1 (Doc. 7).[1] Having considered the

[1] The Court amended its Order after Mr. Ford pointed out an inadvertent grammatical error, but the substantive portion of the Orders requiring Mr. Ford to appear, bring documents, and testify, are identical. *See* May 10, 2007 Amended Order (Doc. 12).

parties arguments, the record, and the applicable law, the Court will deny the motion.

The Court construes Mr. Ford's motion as one for reconsideration. *See Price v. Philpot*, 420 F.3d 1158, 1167 n.9 (10th Cir. 2005) ("[E]very order short of a final decree is subject to reopening at the discretion of the district judge."); *Raytheon Constructors Inc. v. ASARCO, Inc.*, 368 F.3d 1214, 1217 (10th Cir. 2003) (holding that the "district court was incorrect to treat Raytheon's motion for reconsideration under Rule 60(b), which only applies to final orders or judgments"); *Wagoner v. Wagoner*, 938 F.2d 1120, 1122 n.1 (10th Cir. 1991) (noting that a motion for reconsideration filed prior to final judgment "was nothing more than an interlocutory motion invoking the district court's general discretionary authority to review and revise interlocutory rulings prior to entry of final judgment").

Mr. Ford first urges reconsideration on his repeated insistence that the Court does not have personal jurisdiction over him because Chaves County, New Mexico, where he resides, is not a "federal enclave" or federal district. He cites 26 U.S.C. § 7701(a)(9), (10), but those sections only define, for purposes of certain sections of the code, the term "United States" and "State." "United States," "when used in a geographical sense, includes only the States and the District of Columbia;" and "State" "shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title." 26 U.S.C. § 7701(a)(9), (10). The Court

has previously informed Mr. Ford that, as a resident of the state of New Mexico, Mr. Ford is subject to this Court's jurisdiction and to the federal tax code. *See* Transcript of April 19, 2007 Hearing, 9:9-11. As noted in *Lansdale v. United States*, 919 F.2d 1440, 1448 (10th Cir. 1990), arguments such as this one "are completely lacking in legal merit and patently frivolous," and Mr. Ford is subject to sanctions if he continues to make those arguments the basis of litigation or appeal.

Mr. Ford next argues that the Court has no subject matter jurisdiction over the matter before the Court, contending that the IRS's assertion in its petition for enforcement of its summonses that "no returns had been filed" for certain of the years in question is fraudulent. Respondent's Br. at 1. In support, he attaches documents entitled, for example, "Filing Statement For Tax Year (2005) in Affidavit Form," which is actually a six-page brief espousing common, but uniformly rejected, tax-protestor arguments demanding proof that Mr. Ford is subject to the requirement to file a form 1040 income tax form. *See id.* Ex. 9. Mr. Ford asserts that this affidavit substituted for a "return," and because the IRS did not specify that "no 1040's had been filed," its petition for enforcement makes a fraudulent statement. This argument is frivolous. Because Mr. Ford's affidavits filed "in lieu of" forms 1040 did not report the requisite financial and personal tax information in the manner required by the revenue code, they were not valid tax "returns."

Next, Mr. Ford urges reconsideration on his contention that IRS administrative summons using Form 2039 are "obsolete." This argument has long been rejected by the courts. *See Remark v. United States*, 979 F.2d 770, 771 (9th Cir. 1992) (noting that, "in Rev. Proc. 84-62, the IRS recognized that it uses several forms, *in addition* to Form 2039, to issue summonses. . . . Nothing in Rev. Proc. 84-62 indicates, however, that Form 2039 is no longer a valid form," and rejecting the argument that Form 2039 is an obsolete form and that a summons issued on Form 2039 is invalid) (emphasis added).

Mr. Ford next contends that the IRS summons is invalid under 44 U.S.C. § 3512 because it does not have an Office of Management and Budget ("OMB") number on it. Again, this argument has been long rejected. Section 3512 specifically does not apply to the collection of information during the conduct of an administrative action or investigation involving an agency against specific individuals or entities, as in the case of administrative summonses issued by the IRS. *See* 44 U.S.C. § 3518(c)(1)(B)(ii); *Lonsdale,* 919 F.2d at 1444-45 (holding that IRS summonses used to investigate and determine tax liability are exempt from the Paperwork Reduction Act under the "administrative action or investigation . . . against specific individuals" exclusion of § 3518(c)(1)(B)(ii)).

The argument that the summonses are invalid because the IRS capitalized all the letters in Mr. Ford's name in the caption of the federal petition, or because the summonses use the words "small

business/self-employed" in the sections marked IRS "Division" and "area" of the summonses are also frivolous. Equally without merit is his circular argument that the summonses had no purpose because he has never been issued a tax assessment, therefore he has no tax liability. The specific purpose of the summonses is to "investigate" Mr. Ford's tax liability and to "obtain financial information to make a collection determination" of tax liabilities. *See* Doc. 1, Ex. 1 (Affidavit of IRS agent). Mr. Ford cannot ignore them. *See Lonsdale*, 919 F.2d at 1445.

Mr. Ford states that his behavior and statements have been made "in good faith" and to the "best of [his] present knowledge." Respondent's Motion at iii, ¶ 13, and iv. Mr. Ford is cautioned that, although "[i]t is well established that the good faith defense encompasses misunderstanding of the law," it does not encompass "disagreement with the law." *United States v. Schiff*, 801 F.2d 108, 112 (2d Cir. 1986).

> The distinction [between misunderstanding and disagreement] is necessary to the functioning of the tax system. Without it, any taxpayer could evade tax obligations simply by stubbornly refusing to admit error despite the receipt of any number of authoritative statements of the law. At some point, such stubbornness becomes unreasonable; the line is crossed between misunderstanding and disagreement and the taxpayer can no longer successfully assert a defense of good faith.

*Id.* To avoid future sanctions and inform himself of what the law actually requires, the Court recommends that Mr. Ford carefully read and consider the Tenth Circuit's opinion in *Lonsdale* cited above and the law review article by Danshera Cords, TAX PROTESTORS AND PENALTIES: ENSURING PERCEIVED FAIRNESS AND MITIGATING SYSTEMIC COSTS, 2005 B.Y.U. L. Rev. 1515 (2005), and revise his behavior.

**IT IS ORDERED** that the Respondent's Motion for Relief from Void Order is DENIED.

/s/ Judith C. Herrera
UNITED STATES
DISTRICT JUDGE

**THE DISTRICT COURT**
**OF THE UNITED STATES**
**FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA and INTERNAL REVENUE SERVICE,

Petitioners,

Misc. No. 07-16 JH

vs.

H. CLARK FORD III,

Respondent.

**MEMORANDUM OPINION and ORDER**

(Filed Jun. 7, 2007)

**THIS MATTER** comes before the Court on the United States' Second Petition to Enforce IRS Summons, filed May 3, 2007 (Doc. 9). The Court held a show-cause hearing on the motion on June 7, 2007, at which Respondent H. Clark Ford, III, attended, testified, and made arguments. The Court, having considered the Petition, Mr. Ford's answer and arguments, and the testimony of IRS Officer Mike Pryor and Mr. Ford, makes the following findings:

1. The IRS issued two administrative summonses to Mr. Ford on August 11, 2006.

2. Mr. Ford refused to fully comply with the summonses despite having been given several opportunities to do so.

3. The United States filed a Petition to Enforce IRS Summons on March 12, 2007.

4. Mr. Ford responded to the Petition, but did not raise any valid defenses. *See United States v. Riewe*, 676 F.2d 418, 420-21 (10th Cir. 1982).

5. On April 23, 2007, after holding a hearing on the Petition and rejecting Mr. Ford's reasons why he should not be required to comply with the administrative summonses, the Court issued a show-cause order requiring Mr. Ford to

> appear at the IRS office in Roswell, New Mexico (500 N. Richardson, Room 113, Roswell, NM 88201) on Wednesday, May 2, 2007, at 1:00 pm, before IRS Revenue Officer Mike Pryor, to provide testimony and documents requested in the two IRS Summons served upon Mr. Ford (Exhibits Al and A2 to Doc. 1, First Petition).

April 23, 2007 Order at 1 (Doc. 7).

6. Mr. Ford filed a Motion for Relief from the Court's order on May 1, 2007, making the same arguments the Court had earlier rejected. *See* Doc. 8. The Court denied the Motion on June 7, 2007. *See* Doc. 18.

7. Nevertheless, Mr. Ford appeared before Revenue Officer Pryor on May 2.

8. At the meeting, Mr. Ford began to question Mr. Pryor about a grammatical error in the Court's April 23 Order that Mr. Ford construed as the United

States' attempt to make it appear that Mr. Ford agreed with the Petition. *See* Doc. 10 at 2, Tr. of June 7, 2007 Hearing.

9. Officer Pryor told Mr. Ford that Mr. Ford was at the meeting to answer questions, not to ask them, and that if Mr. Ford was not going to answer Officer Pryor's questions about Mr. Ford's ability to pay delinquent taxes and his income for non-filed tax returns, he should leave. *See* Doc 9, Ex. 1; Tr. of June 7, 2007 Hearing.

10. Mr. Ford admitted that he left the meeting without answering any questions and without producing the documents the Court ordered him to produce at the meeting. *See id.*

11. When asked at the hearing why he had disobeyed the Court's order, Mr. Ford continued to argue about the validity of the summonses and gave no valid reason for disobeying the Court's order. *See* Tr. Of June 7, 2007 Hearing.

12. Mr. Ford further testified that he could find no regulations requiring him to keep financial records. *See id.*

13. The U.S. Attorney stated that the United States had been unable to personally serve Mr. Ford at the addresses they had, and were concerned that Mr. Ford would not obey future orders to appear and that they would not be able to find him.

14. The United States requested that Mr. Ford be found in contempt for failing to comply with the

Court's previous order, and that he be held in custody until such time that he complies with the Court's order. Doc 9 at 2-3; Tr. Of June 7, 2007 Hearing.

The Court concludes that:

1. The Court's previous Order requiring Mr. Ford to appear, to testify, and to comply with the IRS summonses is valid.

2. Mr. Ford had knowledge of the Order.

3. Mr. Ford willfully disobeyed the Order.

4. Mr. Ford has demonstrated a stubborn resistance to complying with federal tax laws and the Court's Order and is unlikely to cooperate with IRS agents or comply with the summonses without being compelled to do so.

5. Mr. Ford is in civil contempt, and the Second Petition for Enforcement should be granted.

6. It is necessary to take Mr. Ford into federal custody to ensure his compliance with the Court's Order to cooperate with the IRS Officers.

7. Mr. Ford shall be taken into federal custody and held until he complies with the IRS summonses by answering questions posed by the IRS Officers and supplying the information requested in the summonses.

8. The IRS shall immediately contact Mr. Ford to attempt to obtain the information set forth in the summonses.

9. Upon Mr. Ford's compliance, the United States and/or Mr. Ford shall immediately inform the Court so that an order releasing Mr. Clark from federal custody may be issued. Mr. Ford holds the keys to his jail cell, and the Court encourages him to quickly cooperate and end his incarceration.

**IT IS ORDERED** that the United States' Second Petition to Enforce IRS Summons (Doc. 9) is GRANTED; that Mr. Ford shall be taken into federal custody until he complies with the summonses; that the United States must immediately contact Mr. Ford to set up a meeting for Mr. Ford to respond to questions and produce documents; that the United States report to the Court the status of its efforts on a weekly basis; and that the United States or Mr. Ford shall immediately inform the Court when Mr. Ford has complied with the Court's order.

This is a final, appealable order and the Respondent has 60 days from the entry of this Order to appeal.

/s/ Judith C. Herrera
UNITED STATES
DISTRICT JUDGE

**In The United State District Court**

**District of New Mexico**

***United States* of *America and***

***Internal Revenue Service***
*Petitioners*

V #Mics .No. 07-16JH

H. Clark Ford III
*Respondent*

**Answer to Petition and Show Cause Declaration with Memorandum of Law in Support**

(Filed Apr. 16, 2007)

Now Comes H. Clark Ford III, a natural living man, making a special appearance, filing pro se an **Answer to Petition and Declaration with Memorandum of Laws in Support.**

## I. Answer to Petition

1. Respondent confirms in part and denies in part to paragraph 1 of the petition at bar. H.Clark Ford III finds his domiciliary in Chaves County; He has been domiciled in Chaves County since 1976. H. Clark Ford III receives his mail in Hagerman. H. Clark Ford III lives in Roswell, which is not within the court's geographical jurisdiction. This appearance is not voluntary. Mr. Ford makes an appearance fearful of arrest that the police will mistake him for H.CLARK FORD III. Article I, Section 8 Claus [sic] 17. US Constitution.

2. Respondent confirms in part and denies in part assertions brought forth in paragraph 2. If "Internal Revenue Code?" refers to Title 26, jurisdiction may be conferred in regards to extra- territorial jurisdiction, as congress has deemed necessary, however, no jurisdiction may be conferred thru or by the "Internal Revenue Code".

3. Mr. Pryor did not personally serve Mr. Ford. He cannot confirm that Mr. Pryor served process. The forms at exhibits19A and 19B are not complete.

4. Respondent confirms that the summonses sought testimony for tax years 2001-2005. He denies the allegation that he did not file a return for those years or that a liability exists (see exhibits 1-10).

5. Respondent confirms in paragraph 5 what the summons says but is again aghast that petitioner continues to assert that there was a liability for years 1996 to 2000(see exhibits 1-10)

6. Respondent confirms in paragraph 6 that he did not appear on September 26th 2006. He also confirms that he submitted a conditional acceptance notice. He did not provide any information as requested – nor did Mr. Pryor offer any proof of authority. Mr. Ford made yet another offer of acceptance on November 16 of 2006 and Mr. Pryor dishonored him once more (See exhibits 14A, 14B, 15A and 15B).

7. Respondent confirms in full the statement made in Paragraph 7 of the petition.

8. Respondent confirms in part and denies in part assertions put forth in paragraph 8. Mr. Ford III sent a refusal notice to the attorney's office and to Mr. Pryor. Mr. Ford addressed the summonses for their lack of legal efficacy (Exhibit 20.)

9. Respondent denies in full to assertions put forth in paragraph 9. Thru tacit admission the Secretary and the Director of International Operations has concluded that there has been no liabilities for the years in question – so has Mr. Pryor in that he dishonored Mr. Ford III's demand for assessment for years 1996-2006 (Exhibit 13)

10. Respondent affirms in full to paragraph 10 in the petition.

**Show Cause Declaration of H. Clark Ford III**

On this 10th day of April, the Declarant H. Clark Ford III being of sound mind and not exposed to any duress hereby deposes and attests to the following statements:

1. Agent Michael J. Pryor #84-10124 on August 11 2006 issued two summonses that have been obsolete since 1984[1].

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[1] Rev. Proc. 84-62 1984-37 I.R.B. 35, 1984-2

2. Respondent will not comply with a Federal form, which the Internal Revenue Service declared obsolete in 1984 and is lacking an OMB number.

3. Agent Michael J. Pryor #84-10124 did not document his authority to issue the two summonses dated August 11 2006 (Exhibit 11A and 11B).

4. Agent Michael J. Pryor #84-10124 gave proof of authority to serve said summonses (Exhibits 19A and 19B).

5. Agent Michael J. Pryor #84-10124 filled out a summons form indicating that Declarant is a small business or a wage earner. Declarant is neither (Exhibits 11A and 11B).

6. Declarant will not comply with an instrument, which invites him into a house of pains and penalties to where the processor the prosecutor and the trier of fact are all embodied within the same persona.

7. H. Clark Ford III has filed returns to the best of his belief and knowledge for the tax years in question – 1997-2005 (Exhibits 1-9).

8. All of these returns assert that H. Clark Ford III is a non-resident alien thru the doctrine of *jus soli* and that he had no gross income from with in the District United States for those particular years..

9. All returns from 1997 thru 2005 are in affidavit form.

10. All returns ask for a traverse in affidavit form.

11. The Secretary and the Director of international operations has accepted these returns thru tacit admission (Exhibit 10)

12. Declarant has been under the notion that in law the Secretary and or the Director of International operations had concluded the question of tax liability for each of the succeeding years individually.

13. This has given the Declarant the impression that he did not have to keep records.

14. Due to Mr. Pryor's activities in 2006, Mr. Ford thought perhaps there might have been some liability so he decided to inquire.

15. On May 31 2006, Declarant issued to Agent Michael J. Pryor # #84-10124 demand for summary assessment under 26 CFR 301. 6203-1 (Exhibit 12).

16. Agent Michael J. Pryor #84-10124 dishonored this demand.

17. On July 19 2006, Declarant issued a notice of default on the demand for assessment. (Exhibit 13).

18. Thru tacit admission agent Michael J. Pryor #84-10124 has concluded that there has been no assessments for all of the years in question – 1996-2006

19. After having admitted thru his silence that Declarant had suffered no assessments for

the tax years in question, agent Michael J. Pryor #84-10124 issued two summonses for asserting tax liability on August 11 2006.

20. Agent Michael J. Pryor #84-10124 thru his silence admits that there have been no assessments upon Mr. Ford on July 12, 2006, yet issues two summonses the following month to make a liability determination

21. Because there is [sic] no assessments there could not have been any liability and thus Mr. Ford could see no relevancy to the summonses issued on August 11th 2006.

22. In good faith, Declarant moved to resolve these matters by offering a conditional acceptance for value.

23. On September 6 2006, Declarant gave notice of conditional acceptance to agent Michael J. Pryor #84-10124.

24. The condition was that Mr. Pryor offers proof of authority for which to invade Mr. Ford's expectancy of privacy (Exhibit 14 A).

25. Agent Michael J. Pryor #84-10124 dishonored this offer.

26. H. Clark Ford III issued a default notice on September 19 2006 (exhibit 14 B)

27. On November 16 2006, Declarant again gave notice of conditional acceptance (Exhibit 15A)

28. Agent Michael J. Pryor #84-10124 for the second time dishonored a conditional acceptance. (Exhibit 15 A).

29. Mr. Ford issued a notice of default on December 4 2006 (Exhibit 15 B).

30. Asserting Mr. Pryor's silence, he was for a lack of capacity in these matters.

31. Mr. Ford chose not to be before an individual who thru his own tacit admission lacked capacity in these matters.

I, H.Clark Ford III, a natural living man, affirm under the penalty of perjury that the above 31 statements are true to the best of my knowledge and belief.

/s/ H. Clark Ford

**State of New Mexico**
**County of Chaves**

**NOTORIAL**

Notary Public

I Lori J. Doerhoefer on this 10th day of April ___ 2007 witnessed H. Clark Ford III a person known to be sign the above Declaration

/s/ Lori J Doerhoefer — 4/10/07
Notary Public — Date

[SEAL] My commission expires.

## III. Memorandum of Law In Support of Respondent's Answer and Declaration

### *A. The Summonses Shall Not Issue In That They Do Not Pass the Test of Law*

#### *1. Purpose*

Petitioner has failed to follow the proper standard to allow these two summonses to take effect. In order for the court to bless, the summonses at exhibits 11A and 11B they must purport some form of purpose. The purpose may not be set if the entity on the summons is misidentified. On the face of each summons, the petition deems Mr. Ford to be one of two things for which he is not. He who issued these summonses proclaims Mr. Ford to be either a "small business" or a "wage earner." The assumption that the respondent is one or the other does not make it so. The petition itself fails to identify the respondent by using all capital letters in the spelling of his name. This is not inadvertent. The United States Government Printing Office Manual March 1984 Edition provides comprehensive guidelines on proper grammatical usage in court writings. It provides that proper nouns, such as the respondent's name, to be capitalized. Chapter 17.9 states:

*All proper names are to be spelled with capital first letters; the balance to be spelled with lower case letters.*

Referring to proper nouns being capitalized one must distinguish this from writing something in "all caps". H.CLARK FORD III fails to identify the

respondent. If the respondent were to answer and appear to this proceeding without making an exception, the court would treat him as an "acronym" or a "legal fiction". A legal fiction is an assumption that something is true even though it may be untrue. The petitioner used this style of writing to commence action under an assumption. The respondent's name written in all capital letters puts him in an assumed position like JOHN DOE. Then the slippery slop [sic] may continue to where such assumption can lead to an assumption that the respondent is a "small business". The petitioner is a natural living man who passed from his mother's womb on November 11 1946 in the republic of Ohio; He is not a "small business". The petitioner bases the summonses and the petition on assumptions. If the respondent fails to make exception thru tacit admission, he is concluding that he is a "small business" because he just proclaimed himself as such by remaining silent, respondent makes no such claim. Respondent takes exception to the spelling of his name in all capital letters. If the recipient is misidentified, the summons may have no genuine purpose.

***2. Relevancy***

There is no relevancy to the two summonses at bar. A month before Mr. Pryor *issued and served these two summonses,* the respondent issued to Mr. Pryor a demand for assessment upon 26 CFR 301.6203.-1 May 31 2006. He wanted Mr. Pryor to inform him as to whom the assessment officers were that made the assessments for the tax periods in question. The

respondent wanted to have a dated statement from each assessment officer and the exact amount in US currency as to what was owed under oath penalty of perjury for each of the years in question (Exhibit 12). Mr. Pryor dishonored this demand and Mr. Ford gave notice on July 19 2007 (Exhibit 13). This demand for assessment covered all of the same years that Michael J. Pryor agent #84-10124 summonsed information. At the time he issued these summonses, the issue of tax liability was moot; He had already conveyed to Mr. Ford that there were no assessments for the tax periods 1996-2006 After July 19 the question as to liability was moot. "Once a summons issued by the Internal Revenue Service is challenged it is the duty of the district court to scrutinize the summons carefully to determine whether it seeks information *relevant* (emphasis added) to a legitimate investigative purpose."[1]

### *3. Proper Steps*

Mr. Pryor, the petitioner in the above styled cause, failed to follow proper procedures in securing information from the respondent. First, he did not procure authority for which to issue a summons. For a revenue agent to issue a summons, he must first get authority from the Director. He chose to employ an out of date summons. Form 2039 does not allow a

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[1] *US v Cooper &Lybrand* 413 F. Supp. 942 (US District Court Dis. Colo 1975)

space for a delegating authority. The authority must accompany the summons with a signature.[2] These two summonses sport no such signature (Exhibits 11A and 11B). In Mr. Pryor's declaration, nowhere dose [sic] he state under oath that he has the authority for which to issue a summons (exhibit 21). This coupled with the fact that Mr. Pryor dishonored Mr. Ford's acceptance notices, would lead a reasonable person to conclude that the petitioner is for a lack of authority. The revenue agent also failed to choose a proper form in which to summons the information sought. Form 2039 has been obsolete since 1984.[3] The granting of an IRS summons must not follow if the respondent may show that the pursuing agent has not followed the proper procedures. "In order to establish that IRS summons has been issued in good faith it must be determined that investigation was pursuant to a legitimate purpose, that the inquiry was relevant to that purpose, (*that the information sought was not already with in the commissioners possession*) and that the administrative steps required by the code have been followed.[4] (Emphasis added)

### *4. Bad Faith*

The purpose of an IRS summons under section 7402 is to make a determination of liability –. This is

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[2] D.O. note 4Rev 15, 1984 (d).

[3] Rev Proc 84-62

[4] *Holderbaum v US* 589 F.Supp. 107 (DC Colo 1984)

not the true purpose of the petition. In there [sic] own petition the Petitioner is found out. At statement 9 at page 3 of the petition, it states:

*Mr. Ford's tax liability as of August 2006 was assessed at over $91,600 and estimated at $60,000 plus penalties and interest that continue to accrue.*

The petitioner obfuscates his own motives. Mr. Pryor is convinced that the respondent has a liability. He has already taken action on the notion that H. Clark Ford III has a tax liability for these years in question working to confuse the court that H. Clark Ford III is H.CLARK FORD III. Mr. Pryor has inflicted indignity upon H. Clark Ford III by placing blemishes upon his property (Exhibits 17) and having his trust account garnished (Exhibit 16). He has committed these intrusive acts where no determination of liability exists. We must not assume liability. He is using this court as a way to justify his past misdeeds perpetrated upon Mr. Ford's inalienable right to privacy and property. The enforcement of these summonses will justify an invasion of property and privacy **nunc pro tunc**. The moral proper procedure is fast [sic] to establish a liability then take on these Enforcement measures. This is not Mr. Pryor's way of doing things. First, he assumes liability then without a determination or an assessment he sets in motion levies and liens. Then he goes into the summons routine in order to justify his assimilation of legal process using this court to assist him to do it. The purpose of this petition is not to establish a liability; it is to manufacture a justification. A misplaced

motive connotes bad faith. *Powell* insists that an IRS summons must have a legitimate purpose. The petitioner justifies his petition by alleging that the respondent has failed to file returns. This is a falsehood (Exhibit 1-10).

### *B. The Respondent has not failed to file returns and the petition has been concluded in law for each tax period at bar.*

The Petitioner has wrongly accused the respondent of failing to file a return. Since 1997 thru 2005, Mr. Ford has filed a return for every year. Mr. Ford sent all of these returns by certified mail (Exhibits 1-10). Mr. Ford filed all of these returns in affidavit form and asked for a traverse to conclusions in law. Neither the Treasury Department nor the Director has been at issue with these returns in ten years. Mr. Ford based these returns on sections 6011, 6012, 6103 and 6213 (g) of Title 26. The respondent is fearful of the law and has been reluctant to traverse. Since Mr. Pryor has been involved with the respondent's life, he has sent him a copy of one or more of these returns for his information. These returns conclude that respondent had received no gross income for those years. If the government had any reservation, Mr. Ford asked them to traverse in affidavit form. At no time, has there been an answer or a response. The government has put the question of liability to rest for each and every year – separately (Exhibits 1-10).

If the revenue agent did not know about these returns, he should have before he contacted the Justice Department. respondent gave notice "of refusal" to both the Justice Department and Mr. Pryor in that form he informed both entities that he has been making returns (Exhibit 20). This action has come about on the allegation that "no return has been filed". This is a falsehood. Notice is hereby given that the Mr. Ford had informed the petitioner that he had been making returns and even with that information filed this action.. It is highly unethical for the petitioner to hale the respondent in to court based on these kinds of prevarications.

On March 17 2006, Mr. Ford sent a *nunc pro tunc* affidavit to nine different agencies affiliated with the Internal Revenue Service redeeming himself from the social security number and from being identified as H.CLARK FORD III. Mr. Pryor received a copy of this affidavit and subsequently Mr. Ford sent him the notice of default. (Exhibits 18 and 24). If the government had any reservation, Mr. Ford asked them to traverse in affidavit form. At no time, has there been an answer or a response to his returns or his affidavit *nunc pro tunc*. The question of liability has been put to rest by silent acquiescence. Mr. Ford has relied on these tacit admissions. The respondent has not found any reason to keep records because he has relied on the government's silence. Thus, he does not have any of this information. "Commissioner of internal revenue service need not to meet any standard of probable cause to attain enforcement of administrative

summons . . . but must show that investigation will be conducted pursuant to a legitimate purpose, *that the information is in his possession* (emphasis added), and that administrative steps have been followed."[5]

### *C. There is no equitable contract involved with the issues at bar*

In 1998, H.Clark Ford III revoked his social security number (Exhibit 22). Afterwards, he attempted to open a non- interest bearing account with several banks in Chaves County. All of the banks denied him. In August of 1999, he filed a verified complaint against four banks and seven employees under section 552A of Title 5 US Code (CV-99 00855 BB/ RLP). Judge Bruce Black dismissed this complaint on December 17, 1999 (entry #49). Respondent moved for reconsideration upon a rule 60(b)(4). The court denied the motion on February 4 2000 (entry # 53). Mr. Ford took this issue to the 10th Circuit Court. The 10th Circuit Court affirmed all of the judgments issued at the District Court July 26 2000 (# 99-2368).

All of these rulings translate to one very simple decree: If one is with out a social security number, he may not open a checking account. If Mr. Ford is to comply with the ruling set forth by Judge Black's December 17 judgment, he must not open a checking

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[5] *US v Powell* 379 US 48 (1964)

account. Mr. Ford has honored this decree since 1999 and has not opened any accounts with any banks since that time. He therefore has no contract with the Treasury Department by and thru the member banks of the Federal Reserve System. If Mr. Ford is to honor his *nunc pro tunc* affidavit at Exhibit 18 he cannot use his former social security number in any form. An order enforcing the respondent to comply with the summonses at exhibits 11A and 11B would be ordering Mr. Ford to commit a fraud in that he could not finalize any payments with the "mark of the beast".

## IV. Conclusion

In fear for his on [sic] liberty, the respondent has made an appearance. His appearance is special. There are questions about both en persona and subject matter jurisdiction. Over the past decade, Mr. Ford has displayed a good faith effort to communicate with his government. This cause is founded upon a falsehood that "no returns were filed." The same person who served the summons issued the summonses. The person that issued them did not have the capacity to issue a JOHN DOE summons. If he did have delegated authority, Mr. Pryor used an obsolete form. Mr. Ford has no contract with the Treasury Department. This is an issue at law not equity. Mr. Ford must not be brought to trial to be before the same individual who served him process and is poised to prosecute him. Through tacit admission, there is no liability or authority for these summonses to issue. The respondent has relied on the

Treasury Department's silence. He has found no reason for which to keep records. H. Clark Ford III is not a small business.

*Wherefore: The Respondent Prays That Wisdom. Will Triumph Over All Things and This Court will For The Reasons Above Stated:*

*Deny the Enforcement of the Two Summonses At Bar Issued August 11 2006*

Respectfully Submitted

/s/ H. Clark Ford III
H. Clark Ford III
PO Box 424
Hagerman New Mexico 88232
[Social Security Number Omitted]

**Certificate of Service**

I, H.Clark Ford III, the respondent in the above styled cause making a special appearance do hereby certify that a full and accurate copy of respondent's **Answer and Show Cause Declaration With Memorandum of law In Support** was sent to:

/s/ H. Clark Ford III

Cynthia L. Wiesman, Assistant U.S. Attorney
U.S. Justice Department, District of New Mexico
Post office Box 607
Albuquerque New Mexico 87103

On the 16th Day of April 2007 – the last known address

## List of Exhibits

1. ..... 1997 Return
2. ..... 1998 Return
3. ..... 1999 Return
4. ..... 2000 Return
5. ..... 2001 Return
6. ..... 2002 Return
7. ..... 2003 Return
8. ..... 2004 Return
9. ..... 2005 Return
10..... Notice of Default (1997-2005)
11-A..... Pryor Summons in Roswell
11.-B..... Pryor Summons in Roswell
12..... Demand for Assessment
13..... Default on Demand for Assessment
14-A..... 1st Notice of Acceptance for Value
14-B..... 1st Default of Acceptance for Value
15-A..... 2nd Notice of Acceptance for Value
15-B..... 2nd Default of Acceptance for Value
16..... Notice of Levy
17..... Notice of Federal Tax Lien
18..... Nunc Pro Tunc
19-A..... Service of Summons
19-B..... Service of Summons
20..... Refusal of Summons
21..... Mike Pryor's Declaration
22..... Social Security Revocation
23..... Depleted without a Social Security
24..... Notice of Default Nunc Pro Tunc

H. Clark Ford III
Former SS number [Social Security Number Omitted]
5th United States Judicial District
Box 765
Dexter New Mexico
non domestic postal zone 88230

COPY

Certified Mail # Z-438-556-045

Secretary of the Treasury
Honorable Robert Rubin
United States Department of the Treasury
1500 Pennsylvania Avenue NW
Washington D.C. 20224

Re: Statement pursuant to USC 6011(a)

Honorable Secretary:

You will be Pleased to note the attached statement, which I have prepared is in accordance with the provisions of 26 USC 6011(a). I have also enclosed a copy of a declaration of exemption which sets forth my citizenship status in so far as I have been able to determine by research into law.

I have not filled a standard form 1040 tax return or any of its variations for the year 1997. The reason for not doing so is that I do not believe that I have received any taxable gross income for that year and that I can not find any form for filing which applies to me. This is based upon an examination of all records which I have concerning my affairs. These records do not show.

(a) Any evidence upon which I can make a determination that I am a citizen or resident of the

United States as that term is used the 14th Amendment to the Constitution and at 26 CFR 11-1(a)-(c).

(b) Any evidence of gross income from a source with in or from trade or business which is effectively connected with the United States.

(c) Any evidence which indicates That I have made any determination of said year that I am legally obligated to any tax not mandated upon me by Congress.

In reviewing 26 USC 6011-6012 The implementing regulations and the relevant OMB numbers, I am unable to identify any form which applies to me. I can not determine that I have any obligation to file a return. The OMB number in 26 CFR 602 indicate that the 1040 form concerns 26 USC 911 which applies to citizens living abroad with foreign earned income. The cross reference ındexes reflect that assessment and enforcement statues [sic] are implemented under 27 CFR 50 et seq. These provisions in the regulations concerns persons involved in licensed activities relating to alcohol tobacco firearms and the like. Clearly, this does not apply to me.

The Supreme Court has declared that the income which is taxed is that income which was taxed under the corperate [sic] excise tax of 1909 (*Bowers V. Kerbough Empire Co.* 271 US 170, 174.) This tax was applied only to dealing in commodities or licensed activities such as a corperation [sic] or those matters regulated under 27 CFR.

Under all these circumstances, I am requesting that you inform me as is provided in 26 CFR Secretary of

Treasury 1.6011(b) of the appropriate form which I am required to use, if any, to report my financial affairs for the subject year. In the alternative, I invite you under the same regulation to compute the restitution duty of the United States or any tax obligation imposed upon me as the case may be for said year, if any and show me the law to which makes me subject to the tax. Please insure that the person undertaking this function signs the form under penalty of perjury as required by 26 USC 6065. If the procedure under 26 CFR 1.6011(b) is a different procedure then that which is described in 26 USC 6020(a) please use the more appropriate procedure if either is appropriate.

I am concurrently sending copies of all enclosures to the Assistant Commissioner Internal Operations in Philadelphia, to my local Regional Service Center and to my local District Director. If my directing this letter to you is incorrect please forward it to the proper office for response.

Done with the express reservations of all my rights in law equity and all other matters of law. This 12th day of August 1998.

Respectfully,

/s/ H. Clark Ford III
8/13/98

Enclosed:

Statement( 26 USC 6011(a)
Declaration of Exempt

STATEMENT PER 26 USC 6011(a)

THIS STATEMENT CONCERNS THE TIME PERIOD JANUARY 1 1997 THROUGH DECEMBER 31 1997

NOTE: this statement is prepared pursuant to the provisions of 26 USC 6011(a), with full reservations of all of the rights of declarant in law equity and all other Nature's of law. A Declaration of Exemption accompanies this Statement. Declarant submits the information here in set forth only to avoid sanctions which might arise as a consequence of any determination or claim to the effect that declarant is required by law to make a return or statement. It is not a concession or admission of any tax paymnet [sic] obligation. It is not a waiver of any right. It is submitted in a good faith of effort to supply all information which may be deemed relevant to the procurement of full restitution of money had or received by the United States from declarant after deductions of money lawfully owed, if any, by declarant. It is not intended in anyway and should not be construed as a self assessment. Since declarant is unaware of any official form which is properly addressed to the for going purpose, this unofficial form is submitted in accordance with the provisions of 26 CFR 1.6011(b) and is made with the rulings of settled law. (*Zellerbach Paper Co. V Helvering* 293 US 172.) *Denman V Motter* 44F 2d 648)

Declarant is a married person filing this statement on behalf of declarant.

NOTE THIS IS NOT AN OFFICIAL US GOVERNMENT FORM

STATE OF NEW MEXICO
COUNTY OF CHAVEZ

On the 13th day of August 1998, before me, personally appeared H. Clark Ford III to me personally known or who did produce a valid New Mexico License as identification to be the persons whose name is subscribed to the foregoing instrument said person was sworn upon oath to the truth of the allegation of said instrument and he further execute the same in my presence.

/s/ Judy K. Pelley
NOTARY PUBLIC

My Commission expires: 3-25-2001

SCHEDULE A

| | |
|---|---|
| Value Exchanged for Labor | $ 0 |
| Rent | $ 2,000 |
| Dividends | $ 0 |
| Trust Income | $ 77,904.27 |
| Interest | $ 73.00 |
| Personal Enterprise | $ 0 |
| Royalties | $ 0 |
| Gifts | $ 0 |

Value received from United States sources, trades or business:

| | |
|---|---|
| Government Contracts | $ 0 |
| Government employment | $ 0 |
| Social Security | $ 0 |
| Welfare | $ 0 |
| Other United States receipts | $ 0 |
| Other receipts | $ 0 |
| TOTAL OF INCOME FROM ALL SOURCES | $ 79,904.27 |

## SCHEDULE B. EXPENDITURES

Money had and received by government entities withholding and compensation Federal

| | |
|---|---|
| Employment taxes | $ NA |
| Social Security taxes | $ NA |
| Federal Seizure for taxes interest penalties | $ NA |
| Withholding from compensation (state) | $ NA |
| Interest on credit used | $ NA |
| State seizures for taxes, interest and penalties | $ NA |

Maintenance of Family Labor
(*Human Resources):

| | |
|---|---|
| Food | $ 4th Amendment |
| Physical and Mental health care | $ 4th Amendment |
| Protection (clothing) | $ 4th Amendment |
| Protection (housing and shelter) | $ 4th Amendment |
| Other supplies and services | $ 4th Amendment |
| Transportation | $ 4th Amendment |
| Fuel | $ 4th Amendment |
| Insurance | $ 4th Amendment |
| Maintenance & Repairs | $ 4th Amendment |
| Child care (third party expense.) | $ 4th Amendment |
| Parent care (third party expense) | $ 4th Amendment |
| Losses (deterioration fire torts.) | $ 4th Amendment |
| Utilities | $ 4th Amendment |
| TOTAL FROM SCHEDULE B | $ 4th Amendment |

RESTITUTION FOR VALUE HAD AND RECEIVED BY THE UNITED STATES WITHHOLDING AS

| | |
|---|---|
| Income Tax | $ 0 |
| FICA TAX | $ 0 |
| Medicade | $ 0 |
| SEIZURES | $ 0 |
| TOTAL AMOUNT DUE | $ 0 |

Demand is made for restitution of the above funds after deduction of all sums owed to the United States

(if any) duly computed and asses [sic] pursuant to 26 USC 6020 under penalties of perjury, according to 26 USC 6065.

Declarant has prepared complete copies of all records and documents available to him which form the basis of the foregoing value entries.

This declaration is made in order to claim all exemptions to which I am entitled to by law and to clarify my classification as a citizen I do not here by waive my sovereign immunity to the effect of any law to which I have not consented.

DEFINITIONS

As used in this declaration the fallowing [sic] terms shall have the meanings ascribed to them in this section.

DOMICILE: a place of permanent habitation for a sovereign. A sovereign with a domicile is not a resident as that term is used in the 14th Amendment.

GOVERNMENT: The collection of elected, appointed and hired persons who occupy positions within the branches or departments established by a constitution for a republic.

PEOPLE: all persons who comprise the Citizens of the states and who by virtue of such citizenship are derived united States (American) Citizens

PERSON: a human being of any race or nationality

POLITICAL JURISDICTION: The area over which the Congress of the United States exercises exclusive legislation as defined in the Constitution Article 1 Section 8.

STATE: any one of the fifty states for which the Constitution is to form a more perfect union.

UNITED STATES: The political entity which is recognized as a nation under international law, distinguished from the territory over which it has political jurisdiction, and from the name designation which describes the 50 States united.

I here by declare:

1. The Republic of New Mexico is my domicile and my state of citizenship.

2. I was born in the Republic of Ohio, a child of parents whos ancestors had migrated to the united States of America from Europe. The Constitution acknowledges my citizenship and my right to change it as I move from one of the Republic states to another.

3. I am a citizen of the united States of America. By this I mean what this meant in the Constitution as originally drafted. The United States did not give me my citizenship. I possess it as a derivative right by virtue of my place of birth. As a Citizen, both the territory and the government of the United States belong to me as comprising a portion of the body known as "the people."

4. I reject any implication that I am a foreigner in New Mexico, although I believe that I am a non resident alien to the political jurisdiction of the United States as explained in Paragraph (15) herein.

5. The Declaration of Independence declared that all men are created equal. However, the Constitution recognized a type of person who was held to service, and its 14th Amendment purported to create a class of citizen who is subject to the jurisdiction of the United States.

6. Persons who accept citizenship under Amendment 14 have a citizenship of an entirely different class from my own and they do not have my Constitutional immunity. My citizenship is mine as an inherent and unalienable right which preceded is mine as an inherent and unalienable right which preceded the adoption of the Constitution. My citizenship can not be modified or controlled by the federal government. A 14th Amendment citizen is totally subject to the jurisdiction and control of that government.

A sovereign citizen is any person who is a citizen of the united State [sic] of America under the provisions of the Declaration of Independence.

7. The Declaration of Independence and the Bill of Rights generally recognize the unalienable nature of my rights to liberty and property. My rights to work to earn and to own are unalienable property rights as are my labor and the value for which I exchange it. The Supreme Court ruled in *Brushaber V Union*

*Pacific R.R. Co.* 240 US 1 (1913) that not withstanding the 16th Amendment, Congress always had the power to tax and that the income tax authorized by the 16th Amendment merely classified the tax as an excise tax. The income tax (excise) was on taxable events not on Citizens labor. Since my labor is also my property it can not be directly taxed.

8. It would be unconstitutional for these protected activities to be taxed with out a delegation of my sovereign authority; except by a delegation of power to levy an apportioned direct tax; no such authority exists. A law can not impair or diminish, without my consent, any of my inalienable rights. It would be inconsistent with the provisions of the Constitution. It would also conflict with my status as a Private Citizen of the Republic of New Mexico for the tax laws to be applicable to me with out my consent.

9. I am not obligated to pay any direct tax except insofar as it may be assessed against me by the lawful exercise of state power. The federal government could lay a direct and apportioned tax against the states, which might ultimately effect me through state taxation. It can not assess such a tax against me personally. As for an excise tax, the government may be able to assess me personally but only so long as it does so uniformly among the states. It is Constitutionally impossible to tax me contrary to the limitations of the Constitution.

10. Federal income Taxes are indirect taxes, in the nature of excise taxes. As such, they are actually

taxes imposed upon the conduct of certain activities which are subject to regulation and which are pursued only as a privilege not as a right.

These are known as revenue taxable activities because they are not exempt by law, and the tax is measured by the income such an activity produces.

11. The Internal Revenue Code as interpreted by federal regulations applies to citizens of the United States subject to the jurisdiction thereof. This refers to persons receiving citizenship under Amendment 14. A Private citizen of New Mexico such as myself is never subject to federal law, although I may be bound to obey law enacted under the delegated powers of the Constitution.

12. Income tax is based upon voluntary assessment not upon distraint. Distraint provisions do exist in the Internal Revenue Code. Such provisions can not apply to private citizens such as myself. A person to whom the Internal Revenue applies may be subject to compulsion if he does not voluntarily file a return.

13. I would have no current tax liability whatsoever except for my having signed various documents and filed various IRS Form 1040 returns wherein I unwittingly volunteered to pay income taxes and assessed myself. Since all of these documents were prepared with out my awareness that my compensation for my labor or my property was immune from taxation and that I was not required by any law applicable to myself to prepare or file returns or that such returns would constitute a waiver of my right to refuse to give

evidence against myself, or that the verification of such returns was inappropriate for one such as myself outside the jurisdiction of the US Congress as far as individual assessment goes. I am entitled to be protected against the consequences of my misunderstanding. The mistake may have been mutual as between myself and the federal government. I believed I was a person subject to the tax when I originally applied for my social security number. By declaring myself to being a citizen of the United States years ago at a tender and innocent age of 14 as your records will show as a legal incompetent, unable to enter into a legal contract, I was unaware that there were different classes of citizenship in the United States.

I may have caused various government officials to make the same mistake as to my proper classification on innumerable legal forms since that date. If any government officials or their superiors, knew of my mistakes, such officials or their superiors had a fiduciary duty as my trusted servants to inform me thereof. Their failure to do so would have been fraudulent. On The basis of fraud any such agreement as I have made would be vitiated.

14. Since I am alien to the status of a 14th Amendment citizen or resident and since my domicile is outside of areas where the federal government exercises exclusive legislative jurisdiction, I assume that the Code references to the nonresident alien could actually refer to me.

15. The Code provides for taxation of that income of non resident aliens which is derived from source within or activities effectively connected with the United States.

16. To be from a source with in or to be from an activity effectively connected with the United States, income would have to come from an activity conducted in an area under the political jurisdiction of the federal government, or from a federally licensed activity, such as dealing in alcohol, tobacco or firearms or arise by virtue of some privilege granted by a federal government contract or employment.

17. Let all whom this declaration is sent be aware that I am NONE of the following:

a. A citizen or resident of Washington D.C. any enclave territory or insular possession of the United States or of the United States as those terms are used in the 14th Amendment, the internal Revenue Code or the Regulations.

b. An immigrant to America.

c. A naturalized of any country

d. A person who is subject to the jurisdiction of the United States

e. A person held to service or otherwise in any position of villinage

f. A natural resource or other form of property of the United States

g. A taxpayer

h. A person subject to any tax described in the Internal Revenue Code

i. A person indebted on any outstanding tax obligation to the United States.

j. An employee officer or agent of the United States or any state

k. A fiduciary agent of a non resident alien

l. A person engaged in or receiving income from any trade or business subject to regulation by the United States or from any government contract.

m. A citizen of the United States who is living abroad and receiving foreign earned income.

N. A knowing willing and intentional volunteer into the Internal Revenue Tax System

O. A Person with an Internal Revenue Account.

P. A participant in the Social Security System (my purported enrollment therein was inadvertent and has been canceled rescinded and revoked by me).

Q. A tax protester.

Duplicate original to:

Assistant Commissioner
Internal Operations
Philadelphia Penn. 19255
Certification
# Z-438-556-044

Jack Cheskaty, South western
District
Internal Revenue Service
210 Earl Drive
Phoenix Arizona 85012
# Z 438-556-043

Secretary of Treasury
Hon. Robert Rubin
United States Department of Treasury
1500 Pennsylvania Avenue NW
Washington DC 20224
# Z 438-556-045

M. Day Regional Commissioner
Western Region
1650 Mission
Internal Revenue Service
San Francisco California 94105
# Z 438-556-041

Internal Revenue Service
1160 West 1200
Stop 6100
Ogden Utah 84201-0002
# Z 438-556-042

App. 93

1998 Report

Z 438 556 163

US Postal Service
**Receipt for Certified Mail**
No Insurance Coverage Provided.
Do not use for International Mail (*See reverse*)

| | |
|---|---|
| Sent to<br>Sec of Tres | |
| Street & Number<br>Robert Rubin | |
| Post Office, State, & Zip Code<br>1500 Pen Ave Wash DC | |
| Postage | $ .99 |
| Certified Fees | 1.40 |
| Special Delivery Fee | |
| Restricted Delivery Fee | |
| Return Receipt Showing to<br>Whom & Date Delivered | 1.25 |
| Return Receipt Showing to Whom<br>Date, & Addressee's Address | |
| **TOTAL** Postage & Fees | $ 3.64 |
| Postmark or Date<br>[MAR 3 1999] | |

H. Clark Ford III
Former SS # [Social Security Number Omitted]
5th United States Judicial District
Box 765
Dexter, New Mexico
non domestic postal zone 88230 Certified Mail Z 438-556-163

Secretary of the Treasury
Honorable Robert Rubin
United States Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20224
March 30, 1999

Re: Statement pursuant to USC 6011(a)

Honorable Secretary:

You will be Pleased to note the attached statement, which I have prepared is in accordance with the provisions of 26 USC 6011(a). I have also enclosed a copy of a declaration of exemption which sets forth my citizenship status in so far as I have been able to determine by research into law.

I have not filed a standard form 1040 tax return or any of its variations for the year 1998. The reason for not doing so is that I do not believe that I have received any taxable gross income for that year and that I can not find any form for filing which applies to me. This is based upon an examination of all records which I have concerning my affairs. These records do not show:

(a) Any evidence upon which I can make a determination that I am a citizen or resident of the

United States as that term is used in the 14th Amendment to the constitution and at 26 CFR 1.1-1(a)-(c).

(b) Any evidence of gross income from a source with in or from a trade or business which is effectively connected with the United States.

(c) Any evidence which indicates That I have made any determination for said year that I am legally obligated to any tax not mandated upon me by Congress.

In reviewing 26 USC 6011- 6013 The implementing regulations and the relevant OMB numbers, I am unable to identify any form which applies to me. I can not determine that I have any obligation to file a return: The OMB number in 26 CFR. 602 indicate that the 1040 form concerns 26 USC 911 which applied to citizens living abroad with foreign earned income. The cross reference indexes reflect that assessment and enforcement statues [sic] are implemented under 27 CFR 50 et seq. These provisions in the regulations concerns persons involved in licensed activities relating to alcohol tobacco firearms and the like. Clearly, this does not apply to me.

The Supreme Court has declared that the income which is taxed is that income which was taxed under the corporate excise tax of 1909 ( *Bowers V Kerbough Empire Co.* 271 US 170, 174.) This tax was applied only to dealing in commodities or licensed activities such as a corporation or those matters regulated under 27 CFR.

Under all these circumstances, I am requesting that you inform me as is provided in 26 CFR Secretary of Treasury 1.6011(b) of the appropriate form which I am required to use, if any, to report my financial affairs for the subject year. In the alternative, I invite you under the same regulation to compute the restitution duty of the United States or any tax obligation imposed upon me as the case may be for said year, if any and show me the law to which makes me subject to the tax. Please insure that the person undertaking this function signs the form under penalty of perjury as required by 25 USC 6065. If the procedure under 26 CFR 1.6011(b) is a different procedure then that which is described in 26USC 6020(a) please use the more appropriate procedure if either is appropriate.

I am concurrently sending copies of all enclosures to the Assistant Commissioner Internal Operations in Philadelphia, to my local Regional Service Center and to my local District Director. If my directing this letter to you is incorrect please forward it to the proper office for response.

Done with the express reservations of all my rights in law equity and all other matters of law. This 30th day of March 1999.

Respectfully,

/s/ H. Clark Ford III

Enclosed:

Statement 26 USC 6011(a)
Declaration of Exempt

STATEMENT PER 26 USC 6011(a)

THIS STATEMENT CONCERNS THE TIME PERIOD: JANUARY 1 1998 THROUGH DECEMBER 31 1998

NOTE: this statement is prepared pursuant to the provisions of 26 USC 6011(a) with full reservations of all of the rights of declarant in law equity and all other Nature's of law. A Declaration of Exemption accompanies this Statement. Declarant submits the information here in set forth only to avoid sanctions which might arise as a consequence of any determination or claim to the effect that declarant is required by law to make a return or statement. It is not a concession or admission of any tax paymnet [sic] obligation. It is not a waiver of any right. It is submitted in a good faith of effect to supply all information which may be deemed relevant to the procurement of full restitution of money had or received by the United States from declarant after deductions of money lawfully owed, if any, by declarant. It is not intended in anyway and should not be construed as a self assessment. Since declarant is unaware of any official form which is properly addressed to the for going purpose, this unofficial form is submitted in accordance with the provisions of 26 CFR 1.6011(b) and is made with the rulings of settled law. (*Zellerbach Paper Co. V Helvering* 293 US 172) *Denman V Motter* 44F 2d 648)

Declarant is a married person filing this statement on behalf of declarant.

NOTE THIS IS NOT AN OFFICIAL US GOVERNMENT FORM

Name Age Relation

I, H. Clark Ford III do hereby declare, under penalty of perjury pursuant to the laws of the united States of America that I have examined the preceding statement and the schedules and declarations annexed here to and to the best of my knowledge understanding and belief they are true correct and complete.

Signed /s/ H. Clark Ford III Date March 30, 1999

STATE OF NEW MEXICO
COUNTY OF CHAVEZ

On the day of 1999, before me, personally appeared H. Clark Ford III to me personally known or who did produce a valid New Mexico License as identification to be the persons whose name is subscribed to the foregoing instrument said person was sworn upon oath to the truth of the allegation of said instrument and she further execute the same in my presence.

/s/ [Illegible]
NOTARY PUBLIC

My commission expires 8-14-99

SCHEDULE A

| | |
|---|---|
| Value Exchanged for Labor | $ – |
| Rent | $ – |
| Dividends | $ – |
| Trust Income | $ 80,641.72 |
| Interest | $ 42.00 |
| Personal Enterprize | $ – |
| Royalties | $ – |
| Gifts | $ – |
| Value received from United States sources , trade or businesses | $ – |
| Government Contracts | $ – |
| Government employment | $ – |
| Social Security | $ – |
| Welfare | $ – |
| Other United States receipts | $ – |
| Other receipts | $ – |
| TOTAL OF INCOME FROM ALL SOURCES | $ – |
| | 80,683.72 |

## SCHEDULE B EXPENDITURES

Money had and received by government entities withholding and compensation Federal

Employment taxes ..... $ –

Social Security taxes ..... $ –

Federal Seizure for taxes interest penalties .. $ –

Withholding from compensation (state) ..... $ –

Interest on credit used ..... $ –

State seizures for taxes, interest and penalties .... $ –

### Maintenance of Family Labor ("Human Resources")

Food ..... $ 4th Amendment

Physical and Mental health care .... $ 4th Amendment

Protection ( clothing) ..... $ 4th Amendment

Protection ( housing and shelter).... $ 4th Amendment

Other supplies and services ..... $ 4th Amendment

Transportation ..... $ 4th Amendment

Fuel ..... $ 4th Amendment

Insurance ..... $ 4th Amendment

Maintenance & Repairs..... $ 4th Amendment

Child care (third party expense)..... $ 4th Amendment

Parent care (third party expense)... $ 4th Amendment

Losses ( deterioration fire torts) ..... $ 4th Amendment

Utilities ..... $ 4th Amendment

TOTAL FROM SCHEDULE B..... $ 4th Amendment

RESTITUTION FOR VALUE HAD AND RECEIVED BY THE UNITED STATES WITHHOLDING AS

Income Tax..... $ NA

FICA TAX ..... $ NA

Medicade [sic] ..... $ NA

SEIZURES ..... $ NA

TOTAL PAYMENT DUE ..... $ NA

Demand is made for restitution of the above funds after deduction of all sums owed to the United States (if any) duly computed and assessed pursuant to 26 USC 6020 under penalties of perjury, according to 26 USC 6065.

Declarant has prepared complete copies of all records and documents available to him which form the basis of the foregoing value entries.

This declaration is made in order to claim all exemptions to which I am entitled to by law and to clarify my classification as a citizen. I do not here by waive mu sovereign immunity to the effect of any law to which I have not consented.

DEFINITIONS

As used in this declaration the following terms shall have the meanings ascribed to them in this section.

DOMICILE: a place of permanent habitation for a sovereign. A sovereign with a domicile is not a resident as that term is used in the 14th Amendment.

GOVERNMENT: The collection of elected, appointed and third persons who occupy positions within the branches or departments established by a constitution for a republic.

PEOPLE: all persons who comprise the Citizens of the states and who by virtue of such citizenship are derived united States (American) Citizens

PERSON: a human being of any race or nationality.

POLITICAL JURISDICTION: The area over which the Congress of the United States exercises exclusive legislation as defined in the Constitution Article 1 Section 8.

STATE: any one of the fifty states for which the Constitution is to form a more perfect union.

UNITED STATES: The political entity which his recognized as a nation under international law, distinguished from the territory over which it has political jurisdiction, and from the name designation which describes the 50 states united.

I here by declare:

1. The Republic of New Mexico is my domicile and my state of citizenship.

2. I was born in the Republic of Ohio, a child of parents whos ancestors had migrated to the united

States of America from Europe. The Constitution acknowledges my citizenship and my right to change it as I move from one of the Republic states to another.

3. I am a citizen of the united States of America. By this I mean what this meant in the Constitution as originally drafted. The United States did not give me my citizenship. I possess it as a derivative right by virtue of my place of birth. As a Citizen, both the territory and the government of the United States belong to me as comprising a portion of the body known as "the people."

4. I reject any implication that I am a foreigner in New Mexico, although I believe that I am a non resident alien to the political jurisdiction of the United States as explained in Paragraph (15) herein.

5. The Declaration of Independence declared that all men are created equal. However, the Constitution recognized a type of person who was held to service, and its 14th Amendment purported to create a class of citizen who is subject to the jurisdiction of the United States.

6. Persons who accepted citizenship under Amendment 14 have a citizenship of an entirely different class from my own and they do not have my Constitutional immunity. My citizenship is mine as an inherent and unalienable right which preceded the adoption of the Constitution. My citizenship can not be modified or controlled by the federal government.

A 14th Amendment citizen is totally subject to the jurisdiction and control of that government.

A sovereign citizen is any person who is a citizen of the united State of America under the provisions of the Declaration of Independence.

7. The Declaration of Independence and the Bill of Rights generally recognize the unalienable nature of my rights to liberty and property. My rights to work to earn and to own are unalienable property rights as are my labor and the value for which I exchange it. The Supreme Court ruled in *Brushaber V. Union Pacific R.R. Co.*, 240 US 1 (1913) that not withstanding the 16th Amendment, Congress always had the power to tax and that the income tax authorized by the 16th Amendment merely classified the tax as an excise tax. The income tax ( excise ) was on taxable events not on citizens labor. Since my labor is also my property it can not be directly taxed.

8. It would be unconstitutional for those protected activities to be taxed with out a delegation of my sovereign authority; except by a delegation of power to levy an apportioned direct tax; no such authority exists. A law can not impair or diminish, without my consent, any of my inalienable rights. It would be inconsistent with the provision of the constitution. It would also conflict with my status as a Private Citizen of the Republic of New Mexico for the tax laws to be applicable to me with out my consent.

9. I am not obligated to pay any direct tax except insofar as it may be assessed against me by the

lawful exercise of state power. The federal government could lay a direct and apportioned tax against the state, which might ultimately affect me through state taxation. It can not assess such a tax against me personally. As for an excise tax, the government may be able to assess me personally but only so long as it does so uniformly among the states. It is constitutionally impossible to tax me contrary to the limitation of the Constitution.

10. Federal Income Taxes are indirect taxes, in the nature of excise taxes. As such, they are actually taxes imposed upon the conduct of certain activities which are subject to regulation and which are pursued only as a privilege not as a right.

These are known as revenue taxable activities because they are not exempt by law, and the tax is measured by the income such as activity produces.

11. The Internal Revenue Code is interpreted by federal regulations applies to citizens of the United States subject to the jurisdiction thereof. This refers to persons receiving citizenship under Amendment 14. A Private citizen of New Mexico such as myself is never subject to federal law, although I may be bound to obey law enacted under the delegated powers of the Constitution.

12. Income tax is based upon voluntary assessment not upon distraint. Distraint provisions do exist in the Internal Revenue Code. Such provisions can not apply to private citizens such as myself. A person to whom the Internal Revenue applies may not be

subject to compulsion if he does not voluntarily file a return.

13. I would have no current tax liability whatsoever except for my having signed various documents and filed various IRS Form 1040 returns wherein I unwittingly volunteers to pay income taxes and assessed myself. Since all of these documents were prepared with out my awareness that my compensation for my labor or my property was immune from taxation and that I was not required by any law applicable to myself to prepare or file returns or that such returns would constitute a waiver of my right to refuse to give evidence against myself, or that the verification of such returns was inappropriate for one such as myself outside ether jurisdiction of the US Congress as far as individual assessment goes. I am entitled to be protected against the consequences of my misunderstanding. The mistake may have been mutual as between myself and the federal government. I believed I was a person subject to the tax when I originally applied for my social security number. By declaring myself to being a citizen of the United States years ago at a tender and innocent age of 14 as your records will show as a legal incompetent, unable to enter into a legal contract, I was unaware that there were different classes of citizenship in the United States.

I may have caused various government officials to make the same mistake as to my proper classification on innumerable legal forms since that date. If any government officials or their superiors, knew of my

mistakes, such officials or their superiors had a fiduciary duty as my trusted servants to inform me thereof. Their failure to do so would have been fraudulent. On the basis of fraud any such agreement as I have made would be vitiated.

14. Since I am alien to the status of a 14th Amendment citizen or resident and since my domicile is outside of areas where the federal government exercises exclusive legislative jurisdiction. I assume that the Code references to the nonresident alien could actually refer to me.

15. The Code provides for taxation of that income of non resident aliens which is derived from source within or activities effectively connected with the United States.

16. To be from a source with in or to be from an activity effectively connected with the United States, income would have to come from an activity conducted in an area under the political jurisdiction of the federal Government, or from a federally licensed activity, such as dealing in alcohol, tobacco or firearms or arise by virtue of some privilege granted by a federal government contract or employment.

17. Let all whom this declaration is sent be aware that I am NONE of the following:

a. A citizen or resident of Washington, D.C. any enclave territory or insular possession of the United States or of the United States as those terms are used

in the 14th Amendment, the Internal Revenue Code or the Regulations

b. An immigrant to America.

c. A naturalized of any country

d. A person who is subject to the jurisdiction of the United States

e. A person held to service or otherwise in any position of villinage

f. A natural resource or other form of property of the United States

g. A taxpayer

h. A person subject to any tax described in the Internal Revenue Code

i. A person indebted on any outstanding tax obligation to the United States

j. An employee officer or agent of the United States or any state

k. A fiduciary agent of a non resident alien

l. A person engaged in or receiving income from any trade or business subject to regulation by the United States or from any government contract

m. A citizen of the United States who is living abroad and receiving foreign earned income

N. A knowing willing and intentional volunteer into the Internal Revenue Tax System

O. A Person with an Internal Revenue Account.

P. A tax protester

19. I do hereby declare the exemption of all my real property and other assets and possessions, from any and all claims of government whether federal state or local based upon any purported tax claims demands liabilities, penalties interest, liens levies or other encumbrances of similar import which have no application to me and I do hereby assert all of the exemptions to which I am entitled under the Laws of New Mexico Republic state, the Constitution and the laws of the united states of America, and by reason of all other applicable laws and principles whether arising by common law statute precedent or otherwise and I do further assert and claim all other Rights and exemptions appertaining to my reason of my status as a New Mexico State Citizen, specifically including the Rights and Status more particularly set forth herein above. I do also hereby cancel,recind and revoke all other documents signatures and actions which through in inadvertence fraud or mistake have placed me in that system and otherwise subject me to tax liabilities not applicable to Citizens of my Status (to wit; a private citizen of New Mexico as herein above set forth).

20. This declaration is prepared sent and submitted for the additional purpose of amending and correcting any records in possession of or maintained by any governmental authority which is inconsistent herewith, in accordance with 26 USC 552(a) (and I

demand that any government employee agent representative or official to whom this declaration is directed shall state any rebuttal opposition or challenge to the foregoing declaration with in 30 days of receipt hereof or he shall be esstopped [sic] so to do by the maxim that " he whom remains silent consents."

I do solemnly declare upon my oath that the fore going statements of fact are with in my personal knowledge and are in fact true and correct.

/s/ H. Clark Ford III
H. Clark Ford III

March 30th 1999

STATE OF NEW MEXICO
COUNTY OF CHAVEZ

On the day of 1999, before me, personally appeared H. Clark Ford III to me personally know or who did product a valid New Mexico License as identification to be the persons whose name is subscribed to the foregoing instrument said person was sworn upon oath to the truth of the allegation of said instrument and she further execute the same in my presence.

/s/ [Illegible]
NOTARY PUBLIC

My Commission expires 8-14-99

Duplicate original to

| | | |
|---|---|---|
| Assistant Commissioner<br>Internal Operations<br>Philadelphia Penn. 19255 | Certification<br>X | # Z-438-556-161 |
| Jack Cheskaty,<br>South western district<br>Internal Revenue Service<br>210 Earl Drive<br>Phoenix Arizona 85012 | X | # Z-438-556-162 |
| Secretary of Treasurer<br>Hon. Robert Rubin<br>United States Department of Treasury<br>1500 Pennsylvania Avenue NW<br>Washington, DC 20224 | [NOT IN 4/14/99] | # Z-438-556-163 |
| M. Day<br>Regional Commissioner<br>Western Region<br>1650 Mission<br>Internal Revenue Service<br>San Fransisco [sic]<br>California 94105 | X | # Z-438-556-164 |
| Internal Revenue Service<br>1160 West 1200<br>Stop 6100<br>Ogden, Utah 84201-0002 | X | # Z-438-556-165 |

7099-3220-0005-1299-5104

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete Items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "*Return Receipt Requested*" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
   Secretary of Treasury
   US D T
   1500 PENN NW
   Washington DC 20224

4. Received By: (*Print Name*)

5. Signature: (*Addressee or Agent*)
   /s/ [Illegible]

H. Clark Ford III
Former SS # [Social Security Number Omitted]
5th. United States Judicial District
Box 765
Dexter New Mexico
non domestic postal zone 88230
Certified Mail # 7099-3220-[0]005-1299
5104

Secretary of the Treasury
Honorable Robert Rubin
United States Department of the Treasury
1500 Pennsylvania Avenue NW
Washington D.C.20224

March 20, 2000

Re : Statement pursuant to USC 6011(a)

Honorable Secretary:

You will be Pleased to note the attached statement, which I have prepared is in accordance with the provisions of 26 USC 6011(a). I have also enclosed a copy of a declaration of exemption which sets forth my citizenship status in so far as I have been able to determine by research into law.

I have not filed a standard form 1040 tax return or any of its variations for the year 1999. The reason for not doing so is that I do not believe that I have received any taxable gross income for that year and that I can not find any form for filing which applies to me. This is based upon an examination of all records which I have concerning my affairs. These records do not show:

(a) Any evidence upon which I can make a determination that I am a citizen or resident of the United States as that term is used in the 14th. Amendment to the Constitution and at 26 CFR 1.1-1(a)-(c).

(b) Any evidence of gross income from a source with in or from a trade or business which is effectively connected with the United States.

(c) Any evidence which indicates That I have made any determination for said year that I am legally obligated to any tax not mandated upon me by Congress.

In reviewing 26 USC 6011-6012 The implementing regulations and the relevant OMB numbers, I am unable to identify any form which applies to me. I can not determine that I have any obligation to file a return. The OMB number in 26 CFR 602 indicate that the 1040 form concerns 26 USC 911 which applies to citizens living abroad with foreign earned income. The cross reference indexes reflect that assessment and enforcement statues [sic] are implemented under 27 CFR 50 et seq. These provisions in the regulations concerns persons involved in licensed activities relating to alcohol tobacco firearms and the like. Clearly, this does not apply to me.

The Supreme Court has declared that the income which is taxed is that income which was taxed under the corperate [sic] excise tax of 1909 (*Bowers V Kerbough Empire Co.* 271 US 170, 174.) This tax was applied only to dealing in commodities or licensed

activities such as a corperation [sic] or those matters regulated under 27 CFR.

Under all these circumstances, I am requesting that you inform me as is provided in 26 CFR Secretary of Treasury 1.6011(b) of the appropriate form which I am required to use, if any, to report my financial affairs for the subject year. In the alternative, I invite you under the same regulation to compute the restitution duty of the United States or any tax obligation imposed upon me as the case may be for said year, if any and show me the law to which makes me subject to the tax. Please insure that the person undertaking this function signs the form under penalty of perjury as required by 26 USC 6065. If the procedure under 26 CFR 1.6011(b) is a different procedure then [sic] that which is described in 26USC 6020(a) please use the more appropriate procedure if either is appropriate.

I am concurrently sending copies of all enclosures to the Assistant Commissioner Internal Operations in Philadelphia, to my local Regional Service Center and to my local District Director. If my directing this letter to you is incorrect please forward it to the proper office for response.

Done with the express reservations of all my rights in law equity and all other matters of law. This 21st.. day of March 2000.

Respectfully,

/s/ H. Clark Ford III

Enclosed:

Statement( 26 USC 6011(a)
Declaration of Exempt

---

STATEMENT PER 26 USC 6011(a)

THIS STATEMENT CONCERNS THE
TIME PERIOD: JANUARY 1 1999
THROUGH DECEMBER 31 1999

NOTE: this statement is prepared pursuant to the provisions of 26 USC 6011(a), with full reservations of all of the rights of declarant in law equity and all other Nature's of law. A Declaration of Exemption accompanies this Statement. Declarant submits the information here in set forth only to avoid sanctions which might arise as a consequence of any determination or claim to the effect that declarant is required by law to make a return or statement. It is not a concession or admission of any tax paymnet [sic] obligation. It is not a waiver of any right. It is submitted in a good faith of effort to supply all information which may be deemed relevant to the procurement of full restitution of money had or received by the United States from declarant after deductions of money lawfully owed, if any, by declarant. It is not intended in anyway and should not be construed as a self assessment. Since declarant is unaware of any official form which is properly addressed to the for going purpose, this unofficial form is submitted in accordance with the provisions of 26 CFR 1.6011(b) and is made with the rulings of settled law. (*Zellerbach*

*Paper Co. V Helvering* 293 US 172,) *Denman V Motter* 44F 2d 648)

- - - - - - - - - - - - -

Declarant is a single person filing for himself

NOTE THIS IS NOT AN OFFICIAL US GOVERNMENT FORM

Name Age Relation NA

I, H. Clark Ford III do hereby declare, under penalty of perjury pursuant to the laws of the united States of America that I have examined the preceding statement and the schedules and declarations annexed here to and to the best of my knowledge understanding and belief they are true correct and complete.

Signed H. Clark Ford III Date 3/21/2000

SCHEDULE A

| | | |
|---|---|---|
| Value Exchanged for Labor | ..... | $ NA |
| Rent | ..... | $ NA |
| Dividends | ..... | $ NA |
| Trust Income | ..... | $52,677.49 |
| Interest | ..... | $ NA |
| Personal Enterprize | ..... | $ NA |
| Royalties | ..... | $ NA |
| Gifts | ..... | $ NA |

Value received from United States sources, trades or businesses:

| | | |
|---|---|---|
| Government Contracts | ..... | $ NA |
| Government employment | ..... | $ NA |
| Social Security | ..... | $ NA |
| Welfare | ..... | $ NA |
| Other United States receipts | ..... | $ NA |
| Other receipts | ..... | $ NA |
| TOTAL OF INCOME FROM ALL SOURCES | ..... | $52,677.49 |

## SCHEDULE B EXPENDITURES

Money had and received by government entities withholding and compensation Federal

| | | |
|---|---|---|
| Employment taxes | ..... | $ NA |
| Social Security taxes | ..... | $ NA |
| Federal Seizure for taxes interest penalties | ..... | $ NA |
| Withholding from compensation (state) | ..... | $ NA |
| Interest on credit used | ..... | $ NA |
| State seizures for taxes, interest and penalties | ..... | $ NA |

| Maintenance of Family Labor ("Human Resources): | [ARTICLE II SECTION 10 NEW MEXICO CONTRACTORS] |
|---|---|
| Food ..... | $ Fourth Amendment |
| Physical and Mental health care ..... | $ Fourth Amendment |
| Protection (clothing) ..... | $ Fourth Amendment |
| Protection (housing and shelter) ..... | $ Fourth Amendment |
| Other supplies and services ..... | $ Fourth Amendment |
| Transportation ..... | $ Fourth Amendment |
| Fuel ..... | $ Fourth Amendment |
| Insurance ..... | $ Fourth Amendment |
| Maintenance & Repairs ..... | $ Fourth Amendment |
| Child care (third party expense.) ..... | $ Fourth Amendment |
| Parent care (third party expense) ..... | $ Fourth Amendment |
| Losses (deterioration fire torts.) ..... | $ Fourth Amendment |
| Utilities ..... | $ Fourth Amendment |
| TOTAL FROM SCHEDULE B ..... | $ Fourth Amendment |

RESTITUTION FOR VALUE HAD AND RECEIVED BY THE UNITED STATES WITHHOLDING AS:

| | | |
|---|---|---|
| Income Tax | ..... | $ NA |
| FICA TAX | ..... | $ NA |
| Medicade | ..... | $ NA |
| SEIZURES | ..... | $ NA |
| TOTAL PAYMENT DUE | ..... | $ NA |

Demand is made for restitution of the above funds after deduction of all sums owed to the United States (if any) duly computed and assessed pursuant to 26 USC 6020 under penalties of perjury, according to 26 USC 6065.

Declarant has prepared complete copies of all records and documents available to him which form the basis of the foregoing value entries.

This declaration is made in order to claim all exemptions to which I am entitled to by law and to clarify my classification as a citizen. I do not here by waive my sovereign immunity to the effect of any law to which I have not consented.

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I here by declare:

1. The Republic of New Mexico is my domicile and my state of citizenship.

2. I was born in the Republic of Ohio, a child of parents who's ancestors had migrated to the united States of America from Europe. The Constitution acknowledges my citizenship and my right to change it as I move from one of the Republic states to another.

3. I am a citizen of the united States of America. By this I mean what this meant in the Constitution as originally drafted. The United States did not give me my citizenship. I possess it as a derivative right by virtue of my place of birth. As a Citizen, both the territory and the government of the United States belong to me as comprising a portion of the body known as "the people."

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9. I am not obligated to pay any direct tax except insofar as it may be assessed against me by the lawful exercise of state power. The federal government could lay a direct and apportioned tax against the states, which might ultimately effect me through state taxation. It can not assess such a tax against me personally. As for an excise tax, the government may be able to assess me personally but only so long

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I may have caused various government officials to make the same mistake as to my proper classification on innumerable legal forms since that date. If any government officials or their superiors, knew of my mistakes, such officials or their superiors had a fiduciary duty as my trusted, servants to inform me thereof. Their failure to do so would have been fraudulent. On The basis of fraud any such agreement as I have made would be vitiated.

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15. The Code provides for taxation of that income of non resident aliens which is derived from source within or activities effectively connected with the United States.

16. To be from a source with in or to be from an activity effectively connected with the United States, income would have to come from an activity conducted in an area under the political jurisdiction of the federal government, or from a federally licensed activity, such as dealing in alcohol, tobacco or firearms or arise by virtue of some privilege granted by a federal government contract or employment.

17. Let all whom this declaration is sent be aware that I am NONE of the fallowing [sic]:

a. A citizen or resident of Washington D.C. any enclave territory or insular possession of the United States or of the United States as those terms are used in the 14th. Amendment, the internal Revenue Code or the Regulations.

b. An immigrant to America.

c. A naturalized of any country

d. A person who is subject to the jurisdiction of the United States

e. A person held to service or otherwise in any position of villinage

f A natural resource or other form of property of the United States

g. A taxpayer

h. A person subject to any tax described in the internal Revenue Code

i. A person indebted on any outstanding tax obligation to the United States.

j. An employee officer or agent of the United States or any state

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N. A knowing willing and intentional volunteer into the Internal Revenue Tax System.

O. A Person with an internal Revenue Account

P. A tax protester.

19. I do hereby declare the exemption of all my real property and other assets and possessions, from any

and all claims of government whether federal state or local based upon any purported tax claims demands liabilities, penalties interest, liens levies or other encumbrances of similar import which have no application to me and I do hereby assert all of the exemptions to which I am entitled under the Laws of New Mexico Republic state, the Constitution and the laws of the united States of America, and by reason of all other applicable laws and principles, whether arising by common law statute precedent or otherwise and I do further assert and claim all other Rights and exemptions appertaining to by reason of my status as a New Mexico State Citizen, specifically including the Rights and Status more particularly set forth herein above, I do also hereby cancel, recind and revoke all other documents signatures and actions which through in inadvertence, fraud or mistake have placed me in that system and otherwise subject me to tax liabilities not applicable to Citizens of my Status (to wit; a private citizen of New Mexico as herein above set forth)

20. This declaration is prepared sent and submitted for the additional purpose of amending and correcting any records in possession of or maintained by any governmemtal authority which is inconsistent herewith, in accordance with 26 USC 552(a) and demand that any government employee agent representative or official to whom this declaration is directed shall state any rebuttal opposition or challenge to the foregoing declaration with in 30 days of receipt hereof

or he shall be esstopped [sic] so to do by the maxim that "he who remains silent consents."

I do solemnly declare upon my oath that the fore going statements of fact are with in my personal knowledge and are in fact true and correct.

/s/ H. Clark Ford III
H. Clark Ford III

STATE OF NEW MEXICO
COUNTY OF CHAVES

On the 21st day of March 2000, before me, personally appeared H. Clark Ford III to me personally known or who did produce a valid New Mexico License as identification to be the persons whose name is subscribed to the foregoing instrument said person was sworn upon oath to the truth of the allegation of said instrument and she further execute the same in my presence.

/s/ [Illegible] Paz
NOTARY PUBLIC

My Commission expires:
Dec. 5, 2000

Duplicate original to:

Assistant Commissionor [sic]
International Operations
Philadelphia Penn. 19255

Cerification [sic] # 7099-3220-0005-1299-5067

Jack Cheskaty, South
western District
Internal Revenue Service
210 Earl Drive
Phoenix, Arizona 85012 # 7099-3220-0005-1299-5074

Secretary of Treasury
Hon. Robert Rubin
United States Department
of Treasury
1500 Pennsylvania Avenue
NW
Washington DC 20224 # 7099-3220-0005-1299-5104

M. Day Regional
Commissioner Western
Region
1650 Mission
Internal Revenue Service
San Fransisco [sic]
California 94105 # 7099-3220-0005-1299-5081

Internal Revenue Service
1160 West 1200
Stop 6100
Ogden Utah 84201-0002 # 7099-3220-0005-1299-5098

AFFIDAVITT

I, Horatio Clark Ford III the affaint, on this day of April 12th. affirm and depose the fallowing [sic]:

1. I am the individual whose name appears on the birth certificate in exhibit A under child's name.

2. I am the individual whose name appears on the New Mexico Drivers License in exhibit B.

3 I live at 7728 Hagerman New Mexico and have been domiciled in the Republic of New Mexico 24 years.

4. I was nicknamed by my Father who is still living. He refers to me as "Tracy".

5. My Mother who is deceased also liked that name because it was derived from the French word meaning 3.

6. I am the third individual in my lineal decent with the same name – Thus the figure "III" after my name.

6 [sic]. All my life, I have been identified by all my friends and relatives as "Tracy" even though I use my Christian name on legal documents.

7 [sic]. My Father who lives in Phoenix Arizona bought these airline tickets for me and applied the name "Tracy" to the tickets to which he has refered [sic] to me all my life.

8 [sic]. Tracy Ford and Horatio Clark Ford III, are one in the same individual.

The Affaint Horatio Clark Ford III does affirm and attest under the penalty of perjury that the forgoing affidavit is true to the best of his knowledge and belief.

/s/ H. Clark Ford III
H. Clark Ford III

STATE OF NEW MEXICO )
) ss.
COUNTY OF CHAVES )

SUBSCRIBED and SWORN TO BEFORE ME this 12th day of April, 2000, by Horatio Clark Ford, III.

/s/ [Illegible] Paz
NOTARY PUBLIC

My Commission expires:
Dec. 5, 2000

U.S. Postal Service
**CERTIFIED MAIL RECEIPT**
*(Domestic Mail Only: No Insurance Coverage Provided)*

Article Sent To: [illegible]

| | |
|---|---|
| Postage | $ .97 |
| Certified Fee | 1.90 |
| Return Receipt Fee (Endorsement Required) | 1.50 |
| Restricted Delivery Fee (Endorsement Required) | – |
| Total Postage & Fees | $ 4.37 |

APR 16 2001

7099 3220 0005 1300 3839

*Name (Please Print Clearly (To be completed by mailer)*
[Illegible]

*Street, Apt. No.; or PO Box No.*
1500 [Illegible]

*City, State, Zip + 4*
Washington DC 20224

PS Form 3800, July 1999 See Reverse for Instructions

H. Clark Ford III
Former SS # [Social Security Number Omitted]
10th. United States Judicial District
Box 765
Dexter New Mexico
non domestic postal zone 88230
Certified Mail # 7099-3220-0005-1300-3839

Secretary of the Treasury
Honorable Paul O'Neill
United States Department of the Treasury
1500 Pennsylvania Avenue NW
Washington D.C. 20224
April 14th. 2001

Re: Statement pursuant to USC 6011(a)

Honorable Secretary:

You will be Pleased to note the attached statement, which I have prepared is in accordance with the provisions of 26 USC 6011(a). I have also enclosed a copy of a declaration of exemption which sets forth my citizenship status in so far as I have been able to determine by research into law.

I have not filed a standard form 1040 tax return or any of its variations for the year 2000. The reason for not doing so is that I do not believe that I have received any taxable gross income for that year and that I can not find any form for filing which applies to me. This is based upon an examination of all records which I have concerning my affairs. These records do not show:

(a) Any evidence upon which I can make a determination that I am a citizen or resident of the

United States as that term is used in the 14th. Amendment to the Constitution and at 26 CFR 1.1-1(a)-(c).

(b) Any evidence of gross income from a source with in [sic] or from a trade or business which is effectively connected with the United States.

(c) Any evidence which indicates That I have made any determination for said year that I am legally obligated to any tax not mandated upon me by Congress.

In reviewing 26 USC 6011-6012 The implementing regulations and the relevant OMB numbers, I am unable to identify any form which applies to me. I can not determine that I have any obligation to file a return. The OMB number in 26 CFR 602 indicate that the 1040 form concerns 26 USC 911 which applies to citizens living abroad with foreign earned income. The cross reference indexes reflect that assessment and enforcement statues [sic] are implemented under 27 CFR 50 et seq. These provisions in the regulations concerns persons involved in licensed activities relating to alcohol tobacco firearms and the like. Clearly, this does not apply to me.

The Supreme Court has declared that the income which is taxed is that income which was taxed under the corperate [sic] excise tax of 1909 (*Bowers V Kerbough Empire Co.* 271 US 170, 174.) This tax was applied only to dealing in commodities or licensed activities such as a corperation [sic] or those matters regulated under 27 CFR.

Under all these circumstances, I am requesting that you inform me as is provided in 26 CFR Secretary of Treasury 1.6011(b) of the appropriate form which I am required to use, if any, to report my financial affairs for the subject year. In the alternative, I invite you under the same regulation to compute the restitution duty of the United States or any tax obligation imposed upon me, as the case may be for said year, if any and show me the law to which makes me subject to the tax. Please insure that the person undertaking this function signs the form under penalty of perjury as required by 26 USC 6065. If the procedure under 26 CFR 1.6011(b) is a different procedure then [sic] that which is described in 26USC 6020(a) please use the more appropriate procedure if either is appropriate.

I am concurrently sending copies of all enclosures to the Assistant Commissioner Internal Operations in Philadelphia, to my local Regional Service Center and to my local District Director. If my directing this letter to you is incorrect please forward it to the proper office for response.

Done with the express reservations of all my rights in law equity and all other matters of law. This 14th. day of April 2001.

Respectfully,

_____

Enclosed:

Statement( 26 USC 6011(a)
Declaration of Exempt

_____

STATEMENT PER 26 USC 6011(a)

THIS STATEMENT CONCERNS THE TIME PERIOD: JANUARY 1 2000 THROUGH DECEMBER 31 2000

NOTE: this statement is prepared pursuant to the provisions of 26 USC 6011(a), with full reservations of all of the rights of declarant in law equity and all other Nature's of law. A Declaration of Exemption accompanies this Statement. Declarant submits the information here in set forth only to avoid sanctions which might arise as a consequence of any determination or claim to the effect that declarant is required by law to make a return or statement. It is not a concession or admission of any tax paymnet [sic] obligation. It is not a waiver of any right. It is submitted in a good faith of effort to supply all information which may be deemed relevant to the procurement of full restitution of money had or received by the United States from declarant after deductions of money lawfully owed, if any, by declarant. It is not intended in anyway and should not be construed as a self assessment. Since declarant is unaware of any official form which is properly addressed to the for going [sic] purpose, this unofficial form is submitted in accordance with the provisions of 26 CFR 1.6011(b) and is made with the rulings of settled law. (*Zellerbach Paper Co. V Helvering* 293 US 172,) *Denman V Motter* 44F 2d 648)

---

Declarant is a single person filing for himself

NOTE THIS IS NOT AN OFFICIAL US GOVERNMENT FORM

| Name | Age | ~~Relation~~ |
|---|---|---|
| H. Clark Ford III | 53 | |

I, H. Clark Ford III do hereby declare, under penalty of perjury pursuant to the laws of the united States of America that I have examined the preceding statement and the schedules and declarations annexed here to and to the best of my knowledge understanding and belief they are true correct and complete.

Signed /s/ H. Clark Ford III Date 04/15/02

SCHEDULE A

| | |
|---|---|
| Value Exchanged for Labor | $ – |
| Rent | $ – |
| Dividends | $ – |
| Trust Income | $ 98,573.42 |
| Interest | $ – |
| Personal Enterprise | $ – |
| Royalties | $ – |
| Gifts | $ – |
| Value received from United States sources, trades or business: | |
| Government Contracts | $ NA |
| Government employment | $ NA |
| Social Security | $ NA |
| Welfare | $ NA |

| | |
|---|---|
| Other United States receipts | $ – |
| Other receipts | $ – |
| TOTAL OF INCOME FROM ALL SOURCES | $ 98,573.42 |

## SCHEDULE B EXPENDITURES

Money had and received by government entities withholding and compensation Federal

| | |
|---|---|
| Employment taxes | $ NA |
| Social Security taxes | $ NA |
| Federal Seizure for taxes interest penalties | $ NA |
| Withholding from compensation (state) | $ NA |
| Interest on credit used | $ NA |
| State seizures for taxes, interest and penalties | $ NA |

Maintenance of Family Labor
("Human Resources):

| | |
|---|---|
| Food | $ Article II Section 10 New Mexico Constitution |
| Physical and Mental health care | $ Article II Section 10 New Mexico Constitution |
| Protection (clothing) | $ Article II Section 10 New Mexico Constitution |
| Protection (housing and shelter) | $ Article II Section 10 New Mexico Constitution |

Other supplies and services..... $ Article II Section 10
New Mexico Constitution

Transportation..... $ Article II Section 10
New Mexico Constitution

Fuel..... $ Article II Section 10
New Mexico Constitution

Food..... $ Article II Section 10
New Mexico Constitution

Insurance..... $ Article II Section 10
New Mexico Constitution

Maintenance & Repairs..... $ Article II Section 10
New Mexico Constitution

Child care..... $ Article II Section 10
(third party expense.) New Mexico Constitution

Parent care..... $ Article II Section 10
(third party expense) New Mexico Constitution

Losses..... $ Article II Section 10
(deterioration fire torts.) New Mexico Constitution

Utilities..... $ Article II Section 10
New Mexico Constitution

TOTAL FROM SCHEDULE B.... $ Article II Section 10
New Mexico Constitution

RESTITUTION FOR VALUE HAD AND RECEIVED BY THE UNITED STATES WITHHOLDING AS:

Income Tax.....$ NA

FICA TAX.....$ NA

Medicade [sic].....$ NA

SEIZURES.....$ NA

TOTAL PAYMENT DUE.....$ NA

Demand is made for restitution of the above funds after deduction of all sums owed to the United States (if any) duly computed and assessed pursuant to 26 USC 6020 under penalties of perjury, according to 26 USC 6065.

Declarant has prepared complete copies of all records and documents available to him which form the basis of the foregoing value entries.

This declaration is made in order to claim all exemptions to which I am entitled to by law and to clarify my classification as a citizen. I do not here by waive my sovereign immunity to the effect of any law to which I have not consented.

DEFINITIONS

As used in this declaration the following terms shall have the meanings ascribed to them in this section.

DOMICILE: a place of permanent habitation for a sovereign. A sovereign with a domicile is not a resident as that term is used in the 14th. Amendment.

GOVERNMENT: The collection of elected, appointed and hired persons who occupy positions within the branches or departments established by a constitution for a republic.

PEOPLE: all persons who comprise the Citizens of the states and who by virtue of such citizenship are derived united States (American) Citizens

PERSON: a human being of any race or nationality

POLITICAL JURISDICTION: The area over which the Congress of the United States exercises exclusive legislation as defined in the Constitution Article 1 Section 8.

STATE: any one of the fifty states for which the Constitution is to form a more perfect union.

UNITED STATES: The political entity which is recognized as a nation under international law, distinguished from the territory over which it has political jurisdiction, and from the name designation which describes the 50 States united.

I here by declare:

1. The Republic of New Mexico is my domicile and my state of citizenship.

2. I was born in the Republic of Ohio, a child of parents who's [sic] ancestors had migrated to the united States of America from England. The Constitution acknowledges my citizenship and my right to change it as I move from one of the Republic states to another.

3. I am a citizen of the united States of America. By this I mean what is meant in the Constitution as originally drafted. The United States did not give me my citizenship. I possess it as a derivative right by virtue of my place of birth. As a Citizen, both the territory and the government of the United States belong to me as comprising a portion of the body known as "the people."

4. I reject any implication that I am a foreigner in New Mexico, although I believe that I am a non resident alien to the political jurisdiction of the United States as explained in Paragraph (15) herein.

5. The Declaration of Independence declared that all men are created equal. However, the Constitution recognized a type of person who was held to service, and its 14th. Amendment purported to create a class of citizen who is subject to the jurisdiction of the United States.

6. Persons who accept citizenship under Amendment 14 have a citizenship of an entirely different class from my own and they do not have my Constitutional immunity. My citizenship is mine as an inherent and unalienable right which preceded the adoption of the Constitution. My citizenship can not be modified or controlled by the federal government. A 14th. Amendment citizen is totally subject to the jurisdiction and control of that government.

A sovereign citizen is any person who is a citizen of the united State [sic] of America under the provisions of the Declaration of Independence.

7. The Declaration of Independence and the Bill of Rights generally recognize the unalienable nature of my rights to liberty and property. My rights to work to earn and to own are unalienable property rights as are my labor and the value for which I exchange it. The Supreme Court ruled in *Brushaber V Union Pacific R.R. Co.* 240 US 1 (1913) that not withstanding the 16th. Amendment, Congress always had the

power to tax and that the income tax authorized by the 16th. Amendment merely classified the tax as an excise tax. The income tax (excise) was on taxable events not on Citizens labor. Since my labor is also my property it can not be directly taxed.

8. It would be unconstitutional for these protected activities to be taxed with out a delegation of my sovereign authority; except by a delegation of power to levy an apportioned direct tax; no such authority exists. A law can not impair or diminish, without my consent, any of my inalienable rights. It would be inconsistent with the provisions of the Constitution. It would also conflict with my status as a Private Citizen of the Republic of New Mexico for the tax laws to be applicable to me with out my consent.

9. I am not obligated to pay any direct tax except insofar as it may be assessed against me by the lawful exercise of state power. The federal government could lay a direct and apportioned tax against the states, which might ultimately effect [sic] me through state taxation. It can not assess such a tax against me personally. As for an excise tax, the government may be able to assess me personally but only so long as it does so uniformly among the states. It is Constitutionally impossible to tax me contrary to the limitations of the Constitution.

10. Federal income Taxes are indirect taxes, in the nature of excise taxes. As such, they are actually taxes imposed upon the conduct of certain activities

which are subject to regulation and which are pursued only as a privilege not as a right.

These are known as revenue taxable activities because they are not exempt by law, and the tax is measured by the income such an activity produces.

11. The Internal Revenue Code as interpreted by federal regulations applies to citizens of the United States subject to the jurisdiction thereof. This refers to persons receiving citizenship under Amendment 14. A Private citizen of New Mexico such as myself is never subject to federal law, although I may be bound to obey law enacted under the delegated powers of the Constitution.

12. Income tax is based upon voluntary assessment not upon distraint. Distraint provisions do exist in the Internal Revenue Code. Such provisions can not apply to private citizens such as myself. A person to whom the Internal Revenue applies may not be subject to compulsion if he does not voluntarily file a return.

13. I would have no current tax liability whatsoever except for my having signed various documents and filed various IRS Form 1040 returns wherein I unwittingly volunteered to pay income taxes and assessed myself. Since all of these documents were prepared with out my awareness that my compensation for my labor or my property was immune from taxation and that I was not required by any law applicable to myself to prepare or file returns or that such returns would constitute a waiver of my right to refuse to give

evidence against myself, or that the verification of such returns was inappropriate, for one such as myself outside the jurisdiction of the US Congress as far as individual assessment goes. I am entitled to be protected against the consequences of my misunderstanding. The mistake may have been mutual as between myself and the federal government. I believed I was a person subject to the tax when I originally applied for my social security number. By declaring myself to being a citizen of the United States years ago at a tender and innocent age of 14 as your records will show as a legal incompetent, unable to enter into a legal contract, I was unaware that there were different classes of citizenship in the United States.

I may have caused various government officials to make the same mistake as to my proper classification on innumerable legal forms since that date. If any government officials or their superiors, knew of my mistakes, such officials or their superiors had a fiduciary duty as my trusted servants to inform me thereof. Their failure to do so would have been fraudulent. On The basis of fraud any such agreement as I have made would be vitiated.

14. Since I am alien to the status of a 14th. Amendment citizen or resident and since my domicile is outside of areas where the federal government exercises exclusive legislative jurisdiction, I assume that the Code references to the nonresident alien could actually refer to me.

15. The Code provides for taxation of that income of non resident aliens which is derived from source within or activities effectively connected with the United States.

16. To be from a source with in [sic] or to be from an activity effectively connected with the United States, income would have to come from an activity conducted in an area under the political jurisdiction of the federal government, or from a federally licensed activity, such as dealing in alcohol, tobacco or firearms or arise by virtue of some privilege granted by a federal government contract or employment.

17. Let all whom this declaration is sent be aware that I am NONE of the fallowing [sic]:

a. A citizen or resident of Washington D.C. any enclave territory or insular possession of the United States or of the United States as those terms are used in the 14th. Amendment, the internal Revenue Code or the Regulations.

b. An immigrant to America.

c. A naturalized citizen of any country

d. A person who is subject to the jurisdiction of the United States

e. A person held to service or otherwise in any position of villinage

f. A natural resource or other form of property of the United States

g. A taxpayer

h. A person subject to any tax described in the Internal Revenue Code

i. A person indebted on any outstanding tax obligation to the United States.

j. An employee officer or agent of the United States or any state

k. A fiduciary agent of a non resident alien

l. A person engaged in or receiving income from any trade or business subject to regulation by the United States or from any government contract.

m. A citizen of the United States who is living abroad and receiving foreign earned income.

N. A knowing willing and intentional volunteer into the Internal Revenue Tax System

O. A Person with an Internal Revenue Account.

P. A tax protester.

19. I do hereby declare the exemption of all my real property and other assets and possessions, from any and all claims of government whether federal state or local based upon any purported tax claims demands liabilities, penalties interest, liens levies or other encumbrances of similar import which have no application to me and I do hereby assert all of the exemptions to which I am entitled under the Laws of New Mexico Republic state, the Constitution and the laws

of the united States of America, and by reason of all other applicable laws and principles, whether arising by common law statute precedent or otherwise and I do further assert and claim all other Rights and exemptions appertaining to by reason of my status as a New Mexico State Citizen, specifically including the Rights and Status more particularly set forth herein above. I do also hereby cancel,recind and revoke all other documents signatures and actions which through an inadvertence, fraud or mistake have placed me in that system and otherwise subject me to tax liabilities not applicable to Citizens of my Status (to wit; a private citizen of New Mexico as herein above set forth)

20. This declaration is prepared sent and submitted for the additional purpose of amending and correcting any records in possession of or maintained by any governmental authority which is inconsistent herewith, in accordance with 26 USC 552(a) and I demand that any government employee agent representative or official to whom this declaration is directed shall state any rebuttal opposition or challenge to the foregoing declaration with in 30 days of receipt hereof or he shall be esstopped [sic] so to do by the maxim that "he who remains silent consents."

I do solemnly declare upon my oath that the foregoing statements of fact are with in my personal knowledge and are in fact true and correct.

/s/ H. Clark Ford III
H. Clark Ford III

STATE OF NEW MEXICO
COUNTY OF CHAVES

On the 16th day of April 2001, before me, H. Clark Ford III personally known or who did produce a valid New Mexico License as identification to be the persons whose name is subscribed to the foregoing instrument said person was sworn upon oath to the truth of the allegation of said instrument and he further execute the same in my presence.

/s/ Patricia [Illegible]
NOTARY PUBLIC

My Commission expires: 5-13-2002

Duplicate original to:

Assistant Commissioner
Internal Operations
Philadelphia Penn. 19255
Certification
# 7099-3220-0005-1300
~~8392~~ 3822

Jack Cheskaty, South western
District
Internal Revenue Service
210 Earl Drive
Phoenix Arizona 85012
# 7099-3220-0005-1300
3808

Secretary of Treasury
Hon. Paul O'Neill
United States Department of Treasury
1500 Pennsylvania Avenue NW
Washington DC 20224
# 7099-3220-0005-1300
3839

M. Day Regional Commissioner
Western Region
1650 Mission
Internal Revenue Service
San Francisco California 94105
# 7099-3220-0005-1300
3815

Internal Revenue Service
1160 West 1200
Stop 6100
Ogden Utah 84201-0002

# 7099-3220-0005-1300 3792

U.S. Postal Service
**CERTIFIED MAIL RECEIPT**
*(Domestic Mail Only: No Insurance Coverage Provided)*

**OFFICIAL USE**

| | | |
|---|---|---|
| Postage | $ .57 | |
| Certified Fees | 2.10 | Postmark or Date |
| Return Receipt Fee (Endorsement Required) | 1.50 | [APR 15 2002] |
| Restricted Delivery Fee (Endorsement Required) | – | |
| Total Postage & Fees | $ 4.17 | |

7001 1940 0007 5128 3053

*Sent To*
Director of Internal Operations

*Street, Apt. No.:*
*or PO Box No.*
IRS

*City, State, ZIP + 4*
**Washington D.C. 20044**

PS Form 3800, January 2001
See Reverse for Instructions

| | |
|---|---|
| 4a. | Article Number<br>7099-3220-0005-1300-3792 |
| 4b. | Service Type<br>☐ Registered ☐ Certified<br>☐ Express Mail ☐ Insured<br>☐ Return Receipt for Merchandise ☐ C.O.D. |
| 7. | Date of Delivery<br>3/28/00 |
| 8. | Addressee's Address (*Only if requested and fee is paid*) |

[Stop 6100]

Director of International Operations
Internal Revenue Service
Washington, D.C. 20044

April 15th 2002:

Certified Mail #7001 1940-0007-5128 3053

(Former Soc. Sec. # [Social Security Number Omitted])

Horatio Clark Ford III
PO Box 765
Dexter New Mexico 88232

**FILING STATEMENT FOR TAX YEAR (2001) IN AFFIDAVIT FORM**

**Pursuant to 26 USC §§6011, 6012, 6103, 6213(g) and 7203.**

Dear Director,

One Horatio Clark Ford III being of sound mind and of the age of majority, having first hand knowledge of the facts and law being addressed in this Filing Statement for the tax year 2001, in Affidavit form, do hereby declare the following:

This is a return, for the year 2001 as One can at best define at 26 USC §§ 6103 and 6213(g) of the Internal Revenue Code, and 26 CFR § 301.7216-1(b)(1). This return is filed in lieu of an Internal Revenue Service Form 1040 series and satisfies the requirements of IRC § 6012. One has read the law and understands that all past filings of Internal Revenue Service Form 1040 by me have been in error. My past

misunderstanding of the law does not in any way reflect recognition on my part of any legal requirement or authorization to file Form 1040 and/or 1040A and/or 1040EZ and/or 1040SS. The assigned OMB number identifies the class of individual who is required to file those forms. One is not of that class of individual defined.

Title 26 USC § 6012, states that every person liable for any income "internal revenue" tax must file a return or statement as provided by law. For the reasons stated herein, One believes that One, is not liable for any internal revenue income tax or filing requirement. However, this statement is filed in order to avoid ambiguity or confusion regarding my filing requirement and status as well as to avoid any possible sanctions for failure to file. If One is incorrect in my understanding, One directs you to immediately inform me of my mistake and identify the Form or Statement One is required to file, if any.

Return. – The term "return" includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by Subtitle A or B, or chapter 41, 42, 43, or 44. This Statement complies with all legal requirements and is a statement or return within the meaning of 26 USC §§ 6011, 6012 and 6213(g):

The question as to which statute controls a duty to file an income tax return is the subject of many judicial disputes by the top legal minds of this country as evidenced by the following.

In *Commissioner v. Lane-Wells Co.*, 321 U.S. 219, 222, 64 S.Ct. 511, 513 (1944), the Court noted that § 54 of the 1939 Internal Revenue Code, the predecessor for Internal Revenue Code § 6001, related to the filing requirement; see also *Updike v. United States,* 8 F.2d 913, 915 (8th Cir. 1925). In *True v. United States,* 354 F.2d 323, 324 (Ct.Cl. 1965), *United States v. Carlson,* 260 F.Supp. 423, 425 (E.D.N.Y. 1966), *White v. Commissioner,* 72 U.S.T.C. 1126, 1129 (1979), *McCaskill v. Commissioner*, 77 U.S.T.C. 689, 698 (1981), *Counts v. Commissioner,* 774 F.2d 426, 427 (11th Cir. 1985), *Blount v. Commissioner,* 86 U.S.T.C. 383, 386 (1986), and *Beard v. Commissioner,* 793 F.2d 139 (6th Cir. 1986), these courts held that Internal Revenue Code § 6011 related to the filing requirement. In *United States v. Moore,* 627 F.2d 830, 834 (7th Cir. 1980), *United States v. Dawes,* 951 F.2d 1189, 1192, n. 3 (10th Cir. 1991), and *United States v. Hicks,* 947 F.2d 1356, 1360 (9th Cir. 1991), those courts held that Internal Revenue Code §§ 6011 and 6012 governed this duty. In contrast, the cases of *Steinbrecher v. Commissioner,* 712 F.2d 195, 198 (5th Cir. 1983), *United States v. Bowers,* 920 F.2d 220, 222 (4th Cir. 1990), and *United States v. Neff,* 954 F.2d 698, 699 (11th Cir. 1992), held that only § 6012 governed this duty. But in *United States v. Pilcher,* 672 F.2d 875, 877 (11th Cir. 1982), none of the above sections were mentioned and it was held that §7203 required returns to be filed.

It is apparent that there exists an extreme vicissitude of opinion in the federal courts regarding which

statutes govern the requirement to file income tax returns.

If the Federal District Courts, Tax Court, Court of Claims and the Supreme Court cannot definitively decide the fundamental question as to which section of the Internal Revenue Code requires the filing of an income tax return, whether the tax imposed is an excise or a direct tax, it is obvious that the average American, not educated in the law, will have great difficulty in understanding the tax imposed and this basic question on filing requirements, the species of the tax, among many other questions.

Since the courts are so deeply split over this issue, how can anyone understand the law in an atmosphere of judicial incertitude? Due process requires that the law be such that the duty imposed is unambiguous and those subject to it are able to understand the law. This is not the case with Title 26 USC or 26 CFR implementing regulations.

In 1913, a debate on the Senate floor, regarding the first income tax act under the 16th Amendment was held. Senator Elihu Root commented about the complexity of that first law.

*"I guess you will have to go to jail. If that is the result of not understanding the Income Tax Law I shall meet you there. We shall have a merry, merry time, for all of our friends will be there. It will be an intellectual center, for no one understands the Income Tax Law except persons who have not sufficient intelligence to understand the questions that arise under it."*

All the confusion over an eighty-page Act then, is exponentially compounded by the current ten thousand page, plus, internal revenue code 26 USC, along with more than thirty thousand pages of implementing internal revenue regulations 26 CFR and some unauthorized for IRS usage from 27 CFR.

In light of this judicial uncertainty, One is doing my best to understand and comply with the law and regulations. In light of the courts' and indeed of the Congress' inability to comprehend and agree with the interpretations within the internal revenue laws, One cannot be held responsible for any misunderstanding of internal revenue law, which One may have. Since there are no consistent rulings upon which One can depend, One is merely doing what One considers as true, correct and lawful. The Internal Revenue Services' guidance to me in this matter is absolutely essential and is hereby demanded by rebuttal Affidavit.

Title 26 USC § 7701(a)(14) defines a taxpayer as follows: "The term "taxpayer" means any person subject to any internal revenue tax." The phrase "internal revenue tax" does not appear in the internal Revenue Code until Subtitle E: Alcohol, Tobacco and Certain Other Excise Taxes. 26 USC § 5005, entitled "Persons Liable for Tax", provides that proprietors of distilled spirit plants are the persons liable for internal revenue tax. Since One is not the operator of a distilled spirit plant, One is not, by that definition, subject to any internal revenue tax, and therefore, One is not, by definition, a "taxpayer".

Any past admissions that One was or am at present a "taxpayer" have been made in error and according to the court;

*"In the interpretation of statutes levying taxes it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out." Gould v. Gould,* 245 U.S., 151.

One is not authorized to file any form in the Form 1040 series or any other form pertaining to any internal revenue tax for the following reasons:

1. One has not been able to identify any IRS form in the 1040 series, which displays an OMB number relevant to 26 CFR §1.1-1 and §1.11-1. One cannot file under penalty of perjury a form, which One knows to be the incorrect form for me.

2. One can find no section of Subtitle A, which makes me liable for Subtitle A (income) taxes, and meets the requirements of the Paperwork Reduction Act in providing an OMB number which ties a liability section with Form 1040. Therefore, One firmly believes that One has no liability for Subtitle A taxes and therefore no requirement or authorization to file Form 1040 or any other form relative to Subtitle A (Tax Class 2).

This return has been mailed to the proper address published in 26 CFR. The Internal Revenue Service Centers no longer have the authority to receive and process income tax returns. Delegation Order 99

which authorized the Service Centers to receive and process returns, was declared obsolete, such authority having been transferred via the functional statement published in IRM 1100, at 1117.22. The IRM 1117.22 has also been declared obsolete, and no authority has superseded or replaced it. The only office listed as authorized to receive returns is the Director of International Operations according to 26 CFR § 1.6091-3.

Regulation at 26 CFR § 1.6091-4 provides an alternative to filing a return in a required district. Therefore, if this return is filed in the incorrect venue, the director will please forward the return pursuant to 26 CFR § 1.6091-4(a)(2) to the proper destination and inform me of that location.

As there are presently no internal revenue districts authorized by law, it is difficult for one to know exactly what is to be filed, when or where. Perhaps a review of the following will explain my confusion with the matter.

Title 26 USC §7621 requires the President to establish "internal revenue districts". Even if One wanted to volunteer, it would be impossible for me to comply with any alleged requirement to file Form 1040, in that the Internal Revenue Service has no internal revenue districts assigned and therefore no District Directors exist to whom One could possibly send a return 1040 as per the following:

1. Section 7621 – Internal Revenue Districts.

(a) Establishment of revenue districts.

The President shall establish convenient internal revenue districts for the purpose of administering the internal revenue laws. The President may from time to time alter such districts.

Via Reorganization Plan 3 of 1940, President Roosevelt reassigned duties of the Federal Alcohol Administration to the Bureau of Internal Revenue, thereby abolishing an agency Congress established by law in 1935, then via Reorganization Plan 26 of 1950, President Harry S. Truman abolished offices of internal revenue assessors and collectors that had existed since 1862 legislation. But these changes did not adversely affect the American people at large. Since implementation of the Internal Revenue Code of 1954, there have been no Federal internal revenue districts in the several States. *The Internal Revenue Code limits IRS assessment and collection activity to whatever revenue districts are established under authority of 26 USC § 7621.* The vast majority of Internal Revenue Code taxing authority is geographical in nature and is limited to the District of Columbia and insular possessions of the United States, exclusive of the 50 States of the Union.

In 1998, via Executive Order #10289, as amended, President William J. Clinton authorized the Secretary of the Treasury to establish revenue districts under authority of §7621 of the Internal Revenue Code. Although § 7621 isn't listed in the Parallel

Table of Authorities and Rules, E.O. #10289 is listed. The implementing regulation is Title 19 of the Code of Federal Regulations (CFR) Part 101. The regulation establishes "*customs collection offices*" in each state of the Union; it does not establish internal revenue districts. A note at Part 301.7621-1 of Title 26 of the Code of Federal Regulations confirms that E.O. #10289 is the only authority for establishing revenue districts.

The Internal Revenue Service has no jurisdiction in The Republic of New Mexico and other States of the Union to enforce the internal revenue tax laws, as there exist no "*internal revenue districts*" pursuant to §7621, within the 50 Union states. The Federal tax enigma is resolved to a certain extent in understanding that there is another application of tax other than the geographical. Most of the reorganization plans, executive orders, etc. are intra-governmental in nature. The application is for government agencies and personnel, not the general population of the 50 Union states of the united States of America.

The term "income" is not defined in the Internal Revenue Code; see *United States v. Ballard,* 535 F.2d 400, 404 (8th Cir. 1976). One did not receive "income" as defined in the Code of Federal Regulations at 26 CPR § 1.643(b)-1, which is the only definition of "income" published in the Internal Revenue Code or its corresponding internal revenue regulations.

In *Nicholas v. Fifteenth Street Inv. Co.,* (1939, CA10 Colo.) 105 F2d 289, 39-2 USTC ¶ 9571, it was ruled

that the power of Congress to lay and collect tax on income cannot be extended by legislative definition of the term "income".

Since One did not receive "income" or income form [sic] any "source", as identified by the Secretary for purposes of the income tax, One did not receive "gross income", and One did not have "taxable income". One has had no 'earned income', or income from any "source" as defined by 26 USC §861 and 26 CFR 1.861.(8) generally, as the only "source" for income tax purposes promulgated by the Secretary is contained in this section One has no federal income tax liability, as One has no income from any source listed. The term "earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered including the fair market value of all remuneration paid in any medium other than cash. Earned income is foreign earned income, and must come from sources wholly outside the United States, as evidenced by 26 CFR § 1.911-3, and IRM 3(38)(147)7.1.

The face of Form 1040 indicates that it originates with the "Department of the Treasury, Internal Revenue Service". One cannot determine who or what this "agency" is, or when or how it originated. Apparently, neither the Department of Treasury nor the National Archives or Records Administration is able to determine who or what the "Internal Revenue Service" is. One cannot file any private financial information with the "Department of the Treasury, Internal Revenue Service", since the IRS and

Commissioner of Internal Revenue Service are entities of unknown power and duties. No confidential financial information will be provided to either, nor agents of either, unless and until One is provided with the documents, which state the origin, powers and duties of these entities, duly recorded in the Federal Register.

It appears that the "internal Revenue" is the Puerto Rico special (trust) fund, as evidenced by 31 USC § 1321(62), and "internal revenue" is the Philippines special (trust) fund, its evidenced by 31 USC § 1321(2). One has incurred no liability to either the Philippines special fund or the Puerto Rico special fund. It may be a quaint notion, but possibly the Internal Revenue Service could publish in the Federal Register; it's Structure and field offices and other recordings which are mandated by Congress for Agencies of Government by Title 5 USC §552(a). This certainly would be helpful to all and reduce the uncertainty One now feels with an agency of government, which is invisible to the law.

The Form 1040, if processed, would be processed under the supervision and authority of the Commissioner, Internal Revenue Service. No authority appears to exist for this officer to administer taxes, other than wagering taxes under Treasury Delegation Order 221-3. One has not had any wagering income. Therefore, One has no filing and/or tax liability with this Officer. Further, One has not been able to locate any statute, regulation or other document, which

authorizes and/or creates the office of Commissioner, Internal Revenue Service.

One is not the "individual" described at 26 CFR § 1.6017-1. An individual is defined as a person who is liable for self-employment tax in the territories. For purposes of venue, TC 150 pertains only to the Virgin Islands. In *Mills v. United States* CIV-94-114-TUC-JMR (USDC AZ), a Freedom of Information Act lawsuit was instituted by Mr. Fred D. Mills, wherein he requested a copy of the documents indicating that Transaction Code (TC 150) on the Individual Master File, meant anything other than and/or in addition to the Virgin Islands. The U.S. Department of Justice Tax Division stated that, " . . . no other responsive document exists." This confirming that Transaction Code 150 means exclusively Virgin Islands, relevant to Venue, as is indicated at IRM 30(55) 4.2(29), now 30(55) 4.2(30).

Based upon the nonexistence of any document other than IRM 30(55) 4.2(29) discloseable under the FOIA, Mr. Mills stipulated to a dismissal with prejudice. Therefore, the input of Transaction Code TC 150 (VIRGIN IS) on my Individual Master File Transcript for all years is a clear violation of the Privacy Act and Treasury Department Regulations. The information maintained by this system of records, is not accurate, relevant, timely, or complete and is maintained in a system of records not authorized pursuant to Title 5 USC §552(a).

The status assigned to me by some entity within the Internal Revenue Service, of TC 150, is either computer fraud or an innocent error of input of data. Whatever the case may be One demands an immediate correction of the error and a notification from you that the error has been corrected and informing me of the proper Transaction Code assigned to me.

One has made no election for the Internal Revenue Service to make any return for me, pursuant to 26 USC §§6014 or 6020. The Form 1040 is not approved by the Office of Management and Budget for use in either Substitute Return procedures under 26 USC §6020(b) or deficiency/Substitute for Return procedures under 26 USC §6211.

The Privacy Act System of Records 24.030, Individual Master File (IMF), Returns Processing – Treasury/ IRS, is maintained on taxpayers who file Forms 1040 or power of attorney notifications. Since a taxpayer is defined by law as one who operates a distilled spirit Plant and since One does not operate a distilled spirit Plant; the maintenance of any records in such system of records would violate the provisions of the Privacy Act and 31 CFR §§ 0.735-60 and 0.735-310. The records maintained would not be relevant, accurate or complete, and may be an indication of computer fraud.

First and foremost One is a natural person of the State of New Mexico and of the united States of America and One have been so since birth. One is a non-resident alien to the UNITED STATES and its Territories, the situs of which is Washington, D.C.,

One is not a state or federal government employee, or a juristic personality and One has informed the IRS of these facts. One is not nor has One ever been a non-resident alien "foreigner" for income tax purposes relative to the UNITED STATES. The non-resident alien "foreigner" may have an income tax liability to the UNITED STATES anywhere within the American Empire, regardless of the source of the income.

"No constitutional right exists under the Ninth Amendment, or to any other provision of the Constitution of the United States, " . . . to trust the Federal Government and to rely on the integrity of its pronouncements." *MAPCO, Inc. v Carter* (1978, Em Ct App) 573 F2d 1268, cert den 437 us 904, 57 L Ed 2d 1134, 98 S Ct 3090.

One will be the first to admit that One does not have the intelligence to understand the tax law, as Senator Elihu Root commented in 1913. One does however have the intelligence to ask the questions.

## STATUTORY NOTICE

If there exists any error(s) in any of my facts or in any of the conclusions drawn from them, please indicate in writing with great specificity, such error(s) and any applicable correction thereto, in conformance with Rev. Proc. 88-1, and 89-1, within 30 days or a Default will be entered against you. The individual responding will sign the rebuttal Affidavit under penalty of perjury. Time is of the essence.

Please supply documentation to support any contention on your part that One is or that One may be in

error in any of the foregoing conclusions. If you do not respond in the time prescribed to this Filing Statement in Affidavit Form for the year 2000, One will assume that One is correct in my understanding of the tax code and that One is in compliance with the law.

Horatio Clark Ford III declares under penalty of perjury, pursuant to the common law of the State of New Mexico and the united States of America, that the forgoing is true, accurate, and complete to the best of my knowledge and belief, so help me God.

/s/ H. Clark Ford III

Date:

**NOTORIAL**

**State of New Mexico**

**County of ~~Chavez~~ Eddy**

On this ___ day of ___, 2001 Horatio Clark Ford III, came before me a Notary Public in and for the people of the State of New Mexico, Horatio Clark Ford III personally known by me, in my presence, under oath declared the truth of the above Statement Filing.

/s/ Becky Neel, notary

Seal:

Name _____

Address _____

City and State _____

My Commission Expires: 1-25-03

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Director of International Operations
Internal Revenue Service
Washington, D.C. 20044

April 15th 2003:

Certified Mail #EU 189-463755US

(Former Soc. Sec. # [Social Security Number Omitted])

Horatio Clark Ford III

PO Box 765

Dexter New Mexico 88232

**FILING STATEMENT FOR TAX YEAR (2002) IN AFFIDAVIT FORM**

**Pursuant to 26 USC §§6011, 6012, 6103, 6213(g) and 7203.**

Dear Director,

One Horatio Clark Ford III being of sound mind and of the age of majority, having first hand knowledge of the facts and law being addressed in this Filing Statement for the tax year 2001, in Affidavit form, do hereby declare the following:

This is a return, for the year 2002 as One can at best define at 26 USC §§ 6103 and 6213(g) of the Internal Revenue Code, and 26 CFR § 301.7216-1(b)(1). This return is filed in lieu of an Internal Revenue Service Form 1040 series and satisfies the requirements of IRC § 6012. One has read the law and understands that all past filings of Internal Revenue Service Form

1040 by me have been in error. My past misunderstanding of the law does not in any way reflect recognition on my part of any legal requirement or authorization to file Form 1040 and/or 1040A and/or 1040EZ and/or 1040SS. The assigned OMB number identifies the class of individual who is required to file those forms. One is not of that class of individual defined.

Title 26 USC § 6012, states that every person liable for any income "internal revenue" tax must file a return or statement as provided by law. For the reasons stated herein, One believes that One, is not liable for any internal revenue income tax or filing requirement. However, this statement is filed in order to avoid ambiguity or confusion regarding my filing requirement and status as well as to avoid any possible sanctions for failure to file. If One is incorrect in my understanding, One directs you to immediately inform me of my mistake and identify the Form or Statement One is required to file, if any.

Return. – The term "return" includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by Subtitle A or B, or chapter 41, 42, 43, or 44. This Statement complies, with all legal requirements and is a statement or return within the meaning of 26 USC §§6011, 6012 and 6213(g):

The question as to which statute controls a duty to file an income tax return is the subject of many

judicial disputes by the top legal minds of this country as evidenced by the following.

In *Commissioner v. Lane-Wells Co.*, 321 U.S. 219, 222, 64 S.Ct. 511, 513 (1944), the Court noted that § 54 of the 1939 Internal Revenue Code, the predecessor for Internal Revenue Code § 6001, related to the filing requirement; see also *Updike v. United States*, 8 F.2d 913, 915 (8th Cir. 1925). In *True v. United States*, 354 F.2d 323, 324 (Ct.Cl. 1965), *United States v. Carlson*, 260 F.Supp. 423, 425 (E.D.N.Y. 1966), *White v. Commissioner*, 72 U.S.T.C. 1126, 1129 (1979), *McCaskill v. Commissioner*, 77 U.S.T.C. 689, 698 (1981), *Counts v. Commissioner*, 774 F.2d 426, 427 (11th Cir. 1985), *Blount v. Commissioner*, 86 U.S.T.C. 383, 386 (1986), and *Beard v. Commissioner*, 793 F.2d 139 (6th Cir. 1986), these courts held that Internal Revenue Code § 6011 related to the filing requirement. In *United States v. Moore*, 627 F.2d 830, 834 (7th Cir. 1980), *United States v. Dawes*, 951 F.2d 1189, 1192, n. 3 (10th Cir. 1991), and *United States v. Hicks*, 947 F.2d 1356, 1360 (9th Cir. 1991), those courts held that Internal Revenue Code §§ 6011 and 6012 governed this duty. In contrast, the cases of *Steinbrecher v. Commissioner*, 712 F.2d 195, 198 (5th Cir. 1983), *United States v. Bowers*, 920 F.2d 220, 222 (4th Cir. 1990), and *United States v. Neff*, 954 F.2d 698, 699 (11th Cir. 1992), held that only § 6012 governed this duty. But in *United States v. Pilcher*, 672 F.2d 875, 877 (11th Cir. 1982), none of the above sections were mentioned and it was held that §7203 required returns to be filed.

It is apparent that there exists an extreme vicissitude of opinion in the federal courts regarding which statutes govern the requirement to file income tax returns.

If the Federal District Courts, Tax Court, Court of Claims and the Supreme Court cannot definitively decide the fundamental question as to which section of the Internal Revenue Code requires the filing of an income tax return, whether the tax imposed is an excise or a direct tax, it is obvious that the average American, not educated in the law, will have great difficulty in understanding the tax imposed and this basic question on filing requirements, the species of the tax, arising many other questions.

Since the courts are so deeply split over this issue, how can anyone understand the law in an atmosphere of judicial incertitude? Due process requires that the law be such that the duty imposed is unambiguous and those subject to it are able to understand the law. This is not the case with Title 26 USC or 26 CFR implementing regulations.

In 1913, a debate on the Senate floor, regarding the first income tax act under the 16th Amendment was held. Senator Elihu Root commented about the complexity of that first law.

*"I guess you will have to go to jail. If that is the result of not understanding the Income Tax Law I shall meet you there. We shall have a merry, merry time, for all of our friends will be there. It will be an intellectual center, for no one understands the Income Tax Law*

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All the confusion over an eighty-page Act then, is exponentially compounded by the current ten thousand page, plus, internal revenue code 26 USC, along with more than thirty thousand pages of implementing internal revenue regulations 26 CFR and some unauthorized for IRS usage from 27 CFR.

In light of this judicial uncertainty, One is doing my best to understand and comply with the law and regulations. In light of the courts' and indeed of the Congress' inability to comprehend and agree with the interpretations within the internal revenue laws, One cannot be held responsible for any misunderstanding of internal revenue law, which One may have. Since there are no consistent rulings upon which One can depend, One is merely doing what One considers as true, correct and lawful. The Internal Revenue Services' guidance to me in this matter is absolutely essential and is hereby demanded by rebuttal Affidavit.

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*"In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out." Gould v. Gould,* 245 U.S., 151.

One is not authorized to file any form in the Form 1040 series or any other form pertaining to any internal revenue tax for the following reasons:

1. One has not been able to identify any IRS form in the 1040 series, which displays an OMB number relevant to 26 CFR §1.1-1 and §1.11-1. One cannot file under penalty of perjury a form, which One knows to be the incorrect form for me.

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This return has been mailed to the proper address published in 26 CFR. The Internal Revenue Service Centers no longer have the authority to receive and process income tax returns. Delegation Order 99 which authorized the Service Centers to receive and process returns, was declared obsolete, such authority having been transferred via the functional statement published in IRM 1100, at 1117.22. The IRM 1117.22 has also been declared obsolete, and no authority has superseded or replaced it. The only office listed as authorized to receive returns is the Director of International Operations according to 26 CFR § 1.6091-3.

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Title 26 USC §7621 requires the President to establish "internal revenue districts". Even if One wanted to volunteer, it would be impossible for me to comply with any alleged requirement to file Form 1040, in that the Internal Revenue Service has no internal revenue districts assigned and therefore no District

Directors exist to whom One could possibly send a return 1040 as per the following:

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(a) Establishment of revenue districts.

The President shall establish convenient internal revenue districts for the purpose of administering the internal revenue laws. The President may from time to time alter such districts.

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under authority of §7621 of the Internal Revenue Code. Although § 7621 isn't listed in the Parallel Table of Authorities and Rules, E.O. #10289 is listed. The implementing regulation is Title 19 of the Code of Federal Regulations (CFR) Part 101. The regulation establishes "*customs collection offices*" in each state of the Union; it does not establish internal revenue districts. A note at Part 301.7621-1 of Title 26 of the Code of Federal Regulations confirms that E.O. #10289 is the only authority for establishing revenue districts.

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The status assigned to me by some entity within the Internal Revenue Service, of TC 150, is either

computer fraud or an innocent error of input of data. Whatever the case may be One demands an immediate correction of the error and a notification from you that the error has been corrected and informing me of the proper Transaction Code assigned to me.

One has made no election for the internal Revenue Service to make any return for me, pursuant to 26 USC §§6014 or 6020. The Form 1040 is not approved by the Office of Management and Budget for use in either Substitute Return procedures under 26 USC §6020(b) or deficiency/Substitute for Return procedures under 26 USC §6211.

The Privacy Act System of Records 24.030, Individual Master File (IMF), Returns Processing – Treasury/ IRS, is maintained on taxpayers who file Forms 1040 or power of attorney notifications. Since a taxpayer is defined by law as one who operates a distilled spirit Plant and since One does not operate a distilled spirit Plant; the maintenance of any records in such system of records would violate the provisions of the Privacy Act and 31 CFR §§ 0.735-60 and 0.735-310. The records maintained would not be relevant, accurate or complete, and may be an indication of computer fraud.

First and foremost One is a natural person of the State of New Mexico and of the united States of America and One have been so since birth. One is a non-resident alien to the UNITED STATES and its Territories, the situs of which is Washington, D.C., One is not a state or federal government employee, or a juristic personality and One has informed the IRS of these facts. One is not nor has One ever been a

non-resident alien "foreigner" for income tax purposes relative to the UNITED STATES. The non-resident alien "foreigner" may have an income tax liability to the UNTIED STATES anywhere within the American Empire, regardless of the source of the income.

"No constitutional right exists under the Ninth Amendment, or to any other provision of the Constitution of the United States, " . . . to trust the Federal Government and to rely on the integrity of its pronouncements." *MAPCO, Inc. v Carter* (1978, Em Ct App) 573 F2d 1268, cert den 437 us 904, 57 L Ed 2d 1134, 98 S Ct 3090.

One will be the first to admit that One does not have the intelligence to understand the tax law, as Senator Elihu Root commented in 1913. One does however have the intelligence to ask the questions.

## STATUTORY NOTICE

If there exists any error(s) in any of my facts or in any of the conclusions drawn from them, please indicate in writing with great specificity, such error(s) and any applicable correction thereto, in conformance with Rev. Proc. 88-1, and 89-1, within 30 days or a Default will be entered against you. The individual responding will sign the rebuttal Affidavit under penalty of perjury. Time is of the essence.

Please supply documentation to support any contention on your part that One is or that One may be in error in any of the foregoing conclusions. If you do not respond in the time prescribed to this Filing

Statement in Affidavit Form for the year 2000, One will assume that One is correct in my understanding of the tax code and that One is in compliance with the law.

Horatio Clark Ford III declares under penalty of perjury, pursuant to the common law of the State of New Mexico and the united States of America, that the forgoing is true, accurate, and complete to the best of my knowledge and belief, so help me God.

/s/ H. Clark Ford III 4/14/03
Date:

**NOTORIAL**

**State of New Mexico**

**County of Chavez**

On this 14th day of April, 2003 Horatio Clark Ford III, came before me a Notary Public in and for the people of the State of New Mexico, Horatio Clark Ford III personally known by me, in my presence, under oath declared the truth of the above Statement Filing.

/s/ Diana J. Carroll

Seal: [SEAL]

Name Diana J. Carroll

Address The Kraft Law Firm LLP
PO Box 850

City and State Roswell, MN 88202-0850

My Commission Expires:
February 4, 2006

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7005 0390 0004 0872 0337

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| Total Postage & Fees | $ 4.88 | |

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*Street, Apt. No.; or PO Box No.*
1500 PSN

*City, State, Zip + 4*
Wash DC. 20224

PS Form 3800, June 2002 See Reverse for Instructions

UNITED STATE [sic] DEPARTMENT OF TREASURY
Hon. John Snow Secretary
1500 Pennsylvania Avenue
Washington, D.C. 20224

Date: 03- 28-2007

Certified Mail # 7005 0390 0004 0872 0337

H. Clark Ford III
PO Box 424
Hagerman New Mexico 88232

RE: Former Social Security # [Social Security Number Omitted]

**FILING STATEMENT FOR TAX YEAR 2003 IN AFFIDAVIT FORM**

**Pursuant to 26 USC §§6031, 6012, 6103, 6213(g) and 7203.**

Dear Director,

One, H. Clark Ford III, being of sound mind and of the age of majority, having first hand knowledge of the facts and law being addressed in this Filing Statement for the tax year 2003, in Affidavit form, do hereby declare the following:

This is a return, for the year 2003 as One can at best define at 26 USC §§ 6 103 and 6213(g) of the Internal Revenue Code, and 26 CFR § 301.7216-1(b)(1). As defined at 26 USC §§ 6103 and 6213(g) of the Internal Revenue Code, and 26 CFR § 301.7216-1(b)(1) this is a return for the year 2003. This return is filed in lieu of an Internal Revenue Service Form 1040 series and satisfies the requirements of IRC § 6012. One has read the law and understands that all past filings of Internal Revenue Service Form 1040 by H. Clark

Ford III have been in error. One's past misunderstanding of the law does not in any way reflect recognition on One's part of any legal requirement or authorization to file Form 1040 and/or 1040A and/or 1040EZ and/or 1040SS. The assigned OMB number assigned to those Forms identifies the class of individual who is required to file those forms. One is not of that class of individual defined.

Title 26 USC § 6012, states that every person liable for any income ("internal revenue") tax must file a return or statement as provided by law. For the seasons stated herein, One believes that One, is not liable for any internal revenue income tax or filing requirement. However, this statement is filed in order to avoid ambiguity or confusion regarding One's filing requirement and status as well as to avoid any possible sanctions for failure to file. If One is incorrect in One's understanding, One directs you to immediately inform One of One's mistake and identify the Form or Statement One is required to file, if any.

Return. – The term "return" includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by Subtitle A or B, or chapter 41, 42, 43, or 44. This Statement complies with all legal requirements and is a statement or return within the meaning of 26 USC §§6011, 6012 and 6213(g):

The question as to which statute controls a duty to file an income tax return is the subject of many

judicial disputes by the top legal minds of this country as evidenced by the following.

In *Commissioner v. Lane-Wells Co.*, 321 U.S. 219, 222, 64 S.Ct. 511, 513 (1944), the Court noted that § 54 of the 1939 Internal Revenue Code, the predecessor for Internal Revenue Code § 6001, related to the filing requirement; see also *Updike v. United States*, 8 F.2d 913, 915 (8th Cir. 1925). In *True v. United States*, 354 F.2d 323, 324 (Ct.Cl. 1965), *United States v. Carlson*, 260 F.Supp. 423, 425 (E.D.N.Y. 1966), *White v. Commissioner*, 72 U.S.T.C. 1126, 1129 (1979), *McCaskill v. Commissioner*, 77 U.S.T.C. 689, 698 (1981), *Counts v. Commissioner*, 774 F.2d 426, 427 (11th Cir. 1985), *Blount v. Commissioner*, 86 U.S.T.C. 383, 386 (1986) and *Beard v. Commissioner*, 793 F.2d 139 (6th Cir. 1986), these courts held that Internal Revenue Code § 6011 related to the filing requirement. In *United States v. Moore*, 627 F.2d 830, 834 (7th Cir. 1980), *United States v. Dawes*, 951 F.2d 1189, 1192, n. 3 (10th Cir. 1991), and *United States v. Hicks*, 947 F.2d 1356, 1360 (9th Cir. 1991), those courts held that Internal Revenue Code §§ 6011 and 6012 governed this duty. In contrast, the cases of *Steinbrecher v. Commissioner*, 712 F.2d 195, 198 (5th Cir. 1983), *United States v. Bowers*, 920 F.2d 220, 222 (4th Cir. 1990), and *United States v. Neff*, 954 F.2d 698, 699 (11th Cir. 1992), held that only § 6012 governed this duty. But in *United States v. Pilcher*, 672 F.2d 875, 877 (11th Cir. 1982), none of the above sections were mentioned and it was held that §7203 required returns to be filed.

It is apparent that there exists an extreme vicissitude of opinion in the federal courts regarding which statutes govern the requirement to file income tax returns. It seems apparent to One based upon the learned opinions from cites above listed that a "return" of some sort is expected and required if One has identifiable taxable income. It then becomes a question: "What is a return?" In that answer there is no confusion. A return is defined at 26 USC §§ 6103 and 6213(g) of the Internal Revenue Code, and 26 CFR § 301.7216-1(b)(1).

If the Federal District Courts, Tax Court, Court of Claims and the Supreme Court cannot definitively decide the fundamental question as to which section of the Internal Revenue Code requires the filing of an income tax return, whether the tax imposed is an excise or a direct tax, it is obvious that the average American, not educated in the law, will have great difficulty in understanding the tax imposed and this basic question on filing requirements, and the species of the tax, among many other questions.

Since the courts are so deeply split over this issue, how can anyone understand the law in an atmosphere of judicial incertitude? Due process requires that the law be such that the duty imposed is unambiguous and those subject to it are able to understand the law. This is not the case with Title 26 USC or 26 CFR implementing regulations.

In 1913, a debate on the Senate floor, regarding the first income tax act under the 16th Amendment was

held. Senator Elihu Root commented about the complexity of that first law.

*"I guess you will have to go to jail If that is the result of not understanding the Income Tax Law I shall meet you there. We shall have a merry, merry time, for all of our friends will be there. It will be an intellectual center, for no one understands the Income Tax Law except persons who have not sufficient intelligence to understand the questions that arise under it.*

All the confusion over an eighty-page Act then, is exponentially compounded by the current ten thousand page, plus, internal revenue code 26 USC, along with more than thirty thousand pages of implementing internal revenue regulations 26 CFR and some unauthorized for IRS usage from 27 CFR.

In light of this judicial uncertainty, One is doing One's best to understand and comply with the law and regulations. In light of the courts and indeed of Congress' inability to comprehend and agree with the interpretations within the internal revenue laws, One cannot be held responsible for any misunderstanding of internal revenue law, which One may have. Since there are no consistent rulings upon which One can depend, One is merely doing what One considers as true, correct and lawful. The Internal Revenue Services' guidance to One in this matter is absolutely essential and is hereby demanded by rebuttal Affidavit.

Title 26 USC § 7701(a)(14) defines a taxpayer as follows: "The term "taxpayer" means any person

subject to any internal revenue tax." The phrase "internal revenue tax" does not appear in the Internal Revenue Code until Subtitle E: Alcohol, Tobacco and Certain Other Excise Taxes. 26 USC § 5005, entitled "Persons Liable for Tax", provides that proprietors of distilled spirit plants are the persons liable for internal revenue tax. Since One is not the operator of a distilled spirit plant, One is not, by that definition, subject to any internal revenue tax, and therefore, One is not, by definition, a "taxpayer".

Any past admissions that One was, or is, at present a "taxpayer" have been made in error and according to the court;

*"In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used or to enlarge their operations so as to embrace matters not specifically pointed out." Gould v. Gould,* 245 U.S., 151.

One is not authorized to file any form in the Form 1040 series or any other form pertaining to any internal revenue tax for the following reasons:

1. One has not been able to identify any IRS form in the 1040 series, which displays an OMB number relevant to 26 CFR §1.1-1 and §1.11-1. One cannot file under penalty of perjury a form, which One knows to be an incorrect form.

2. One can find no section of Subtitle A, which makes One liable for Subtitle A (income) taxes, and meets the requirements of the Paperwork

Reduction Act in providing an OMB number which ties a liability section with Form 1040. Therefore, One firmly believes that One has no liability for Subtitle A taxes and therefore no requirement or authorization to file Form 1040 or any other form relative to Subtitle A (Tax Class 2).

3. It is impossible for One to sign the Form 1040 in that the jurat states under penalty of perjury. As One is not an Officer, Employee or Elected Official who is under Oath of Office, and One has taken no Oath, One cannot sign the Form 1040. To do so, and then while under Oath in a Court of law One stated One did sign under penalty of perjury, One would have created a technical perjury because One was not under Oath when One signed the Form. One may have mislead the government when One signed that Form in the past as One was ignorant of the only way a person can be held under penalty of perjury, i.e, under Oath of Office or under an Oath taken before a Notary or a Judge. One will not make that mistake in the future and One does now instruct you to remove all of One's signatures from past filings of the 1040 Form and other Documents Nunc Pro Tunc.

This return has been mailed to the proper address published in 26 CFR The Internal Revenue Service Centers no longer have the authority to receive and process income tax returns. Delegation Order 99 which authorized the Service Centers to receive and process returns, was declared obsolete, such authority having been transferred via the functional statement

published in IRM 1100, at 1117.22. The IRM 1117.22 has also been declared obsolete, and no authority has superseded or replaced it. The only office listed as authorized to receive returns is the Director of International Operations according to 26 CFR § 1.6091-3.

Regulation at 26 CFR § 1.6091-4 provides an alternative to filing a return in a required district Therefore, if this return is filed in the incorrect venue, the director will please forward the return pursuant to 26 CFR § 1.6091-4(a)(2) to the proper destination and inform One of that location.

As there are presently no internal revenue districts authorized by law, it is difficult for one to know exactly what is to be filed, when or where. Perhaps a review of the following will explain One's confusion with the matter:

Title 26 USC §7621 requires the President to establish "internal revenue districts". Even if One wanted to volunteer, it would be impossible for One to comply with any alleged requirement to file Form 1040, in that the Internal Revenue Service has no internal revenue districts assigned and therefore no District Directors exist to whom One could possibly send a return 1040 as per the following:

1. Section 7621 – Internal Revenue Districts.

   (a) Establishment of revenue districts.

   The President shall establish convenient internal revenue districts for the purpose of administering the internal revenue laws. The

> President may from time to time alter such districts.

Via Reorganization Plan 3 of 1940, President Roosevelt reassigned duties of the Federal Alcohol Administration to the Bureau of Internal Revenue, thereby abolishing an agency Congress established by law in 1935, then via Reorganization Plan 26 of 1950, President Harry S. Truman abolished offices of internal revenue assessors and collectors that had existed since 1862 legislation. But these changes did not adversely affect the American people at large. Since implementation of the Internal Revenue Code of 1954, there have been no Federal internal revenue districts in the several States. *The Internal Revenue Code limits IRS assessment and collection activity to whatever revenue districts are established under authority of 26 USC § 7621.* The vast majority of Internal Revenue Code taxing authority is geographical in nature and is limited to the District of Columbia and insular possessions of the United States, exclusive of the 50 States of the Union.

In 1998, via Executive Order #10289, as amended, President William J. Clinton authorized the Secretary of the Treasury to establish revenue districts under authority of §7621 of the Internal Revenue Code. Although § 7621 isn't listed In the Parallel Table of Authorities and Rules, E.O. #10289 is listed. The implementing regulation is Title 19 of the Code of Federal Regulations (CFR) Part 101. The regulation establishes "*customs collection offices*" in each state of the Union; it does not establish internal

revenue districts. A note at Part 301.7621-1 of Title 26 of the Code of Federal Regulations confirms that E.O. #10289 is the only authority for establishing revenue districts.

The Internal Revenue Service has no jurisdiction in The State of New Mexico and other states of the Union to enforce the internal revenue tax laws, as there exist no "*internal revenue districts*" pursuant to §7621, within the 50 Union states. The Federal tax enigma is resolved to a certain extent in understanding that there is another application of tax other than the geographical. Most of the reorganization plans, executive orders, etc. are infra-governmental in nature. The application is for government agencies and personnel, not the general population of the 50 Union states of the united States of America.

The term "income" is not defined in the Internal Revenue Code; see *United States v. Ballard*, 535 F.2d 400, 404 (8th Cir. 1976). One did not receive "Income" as defined in the Code of Federal Regulations at 26 CFR § 1.643(b)-1, which is the only definition of "income" published in the Internal Revenue Code or its corresponding internal revenue regulations.

In *Nicholas v. Fifteenth Street Inv. Co.*, (1939, CA10 Colo.) 105 F2d 289, 39-2 USTC ¶ 9571, it was ruled that the power of Congress to lay and collect tax on income cannot be extended by legislative definition of the term "income".

Since One did not receive "income" or income form [sic] any "source" as identified by the Secretary for purposes

of the income tax, One did not receive "gross income", and One did not have "taxable income". One has had no 'earned income', or income from any "source" as defined by 26 USC §861 and 26 CFR 1.861.(8) generally, as the only "source" for income tax purposes promulgated by the Secretary is contained in this section One has no federal income tax liability, as One has no income from any source listed. The term "earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered including the fair market value of all remuneration paid in any medium other than cash. Earned income is foreign earned income, and must come from sources wholly outside the United States, as evidenced by 26 CFR § 1.911-3, and IRM 3(38)(147) 7.1.

The face of Form 1040 indicates that it originates with the "Department of the Treasury, Internal Revenue Service". One cannot determine who or what this "agency" is, or when or how it originated. Apparently, neither the Department of Treasury nor the National Archives or Records Administration is able to determine who or what the "Internal Revenue Service" is. One cannot file any private financial information with the "Department of the Treasury, Internal Revenue Service", since the IRS and Commissioner of Internal Revenue Service are entities of unknown power and duties. No confidential financial information will be provided to either, nor agents of either, unless and until One is provided with the documents, which state the origin, powers and

duties of these entities, duly recorded in the Federal Register.

It appears that the "Internal Revenue" is the Puerto Rico special (trust) fund, as evidenced by 31 USC § 1321(62), and "internal revenue" is the Philippines special (trust) fund, as evidenced by 31 USC § 1321(2). One has incurred no liability to either the Philippines special fund or the Puerto Rico special fund. It may be a quaint notion, but possibly the Internal Revenue Service could publish in the Federal Register; it's Structure and field offices and other recordings which are mandated by Congress for Agencies of Government by Title 5 USC §552(a). This certainly would be helpful to all and reduce the uncertainty One now feels with an agency of government; which is invisible to the law.

The Form 1040, if processed, would be processed under the supervision and authority of the Commissioner, Internal Revenue Service. No authority appears to exist for this officer to administer taxes, other than wagering taxes under Treasury Delegation Order 221-3. I have had no wagering income. Therefore, One has no filing and/or tax liability with this Officer. Further, One has not been able to locate any statute, regulation or other document, which authorizes and/or creates the office of Commissioner, Internal Revenue Service.

One is not the "individual" described at 26 CFR § 1.6017-1. An individual is defined as a person who is liable for self-employment tax in the territories.

For purposes of venue, TC 150 pertains only to the Virgin Islands. In *Mills v. United States* CIV-94-114-TUC-JMR (USDC AZ), a Freedom of Information Act lawsuit was instituted by Mr. Fred D. Mills, wherein he requested a copy of the documents indicating that Transaction Code (TC 150) on the Individual Master File, meant anything other than and/or in addition to the Virgin Islands. The U.S. Department of Justice Tax Division stated that, " . . . no other responsive document exists." This confirming that Transaction Code 150 means exclusively Virgin Islands, relevant to Venue, as is indicated at IRM 30(55) 4.2(29), now 30(55) 4.2(30).

Based upon the nonexistence of any document other than IRM 30(55) 4.2(29) discloseable under the FOIA, Mr. Mills stipulated to a dismissal with prejudice. Therefore, the input of Transaction Code TC 150 (VIRGIN IS) on One's Individual Master File Transcript for all years is a clear violation of the Privacy Act and Treasury Department Regulations. The information maintained by this system of records, is not accurate, relevant timely, or complete and is maintained in a system of records not authorized pursuant to Title 5 USC §552(a).

The status assigned to One's files by some entity within the Internal Revenue Service, of TC 150, is either computer fraud or an innocent error of input of data. Whatever the case may be, One demands an immediate correction of the error and a notification from you that the error has been corrected and

informing One of the proper Transaction Code assigned and posted.

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First and foremost One is a natural born person of one of the Fifty (50) sovereign states of the united States of America the Republic. And One has been so since birth. One is a non-resident alien to the UNITED STATES and its Territories, the situs of which is Washington, D.C., One is not a State or federal government employee, or a juristic personality and One has informed the IRS of these facts. One is not, nor has One ever been, a non-resident alien "foreigner"

for income tax purposes relative to the UNITED STATES. The non-resident alien "foreigner" may have an income tax liability to the UNITED STATES anywhere within the American Empire, regardless of the source of the income.

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## *STATUTORY NOTICE*

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Please supply documentation to support any contention on your part that One is, or that One may be, in error in any of the foregoing conclusions. If you do not

respond in the time prescribed to this Filing Statement in Affidavit Form for the year 2003, One will assume that One is correct in One's understanding of the tax code and that One is in compliance with the law.

One, H. Clark Ford III, declares under penalty of perjury, pursuant to the common law of The State of New Mexico and the united States of America, that the forgoing is true, accurate, and complete to the best of One's knowledge and belief, so help me God.

> Notice is hereby given that this document must be filed as a permanent part of the administrative records/files and any of their records systems and/or files maintained by the Internal Revenue Service on the referenced Declarant/Requester and social security account number. If such records have been substituted or deleted this demand still applies

/s/ H. Clark Ford III

Date: March 28, 2007

**NOTORIAL**

**COUNTY OF CHAVES**
**STATE OF NEW MEXICO**

On this day of , 2004 One, H. Clark Ford III, came before me a Notary Public in and for the people of The State of New Mexico, One, H. Clark Ford III, personally known by me, in my presence, under oath declared the truth of the above Statement Filing.

/s/ Robin Purcella
Notary Public

[SEAL]

9/29/07
My Commission Expires:

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*(Domestic Mail Only; No Insurance Coverage Provided)*

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WASHINGTON DC 20044

**OFFICIAL USE**

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| Postage | $ $0.63 | |
| Certified Fees | $2.40 | |
| Return Receipt Fee (Endorsement Required) | $1.85 | [Illegible] |
| Restricted Delivery Fee (Endorsement Required) | $0.00 | 03/28/2007 |
| Total Postage & Fees | $ $4.88 | |

7005 0390 0004 0872 0344

*Sent To*
Division of Int. Affairs

*Street, Apt. No.:*
*or PO Box No.*
Internal Rev. Service

*City, State, ZIP + 4*
20044

PS Form 3800, June 2002

See Reverse for Instructions

| SENDER *COMPLETE THIS SECTION* | |
|---|---|
| ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.<br>■ Print your name and address on the reverse so that we can return the card to you.<br>■ Attach this card to the back of the mailpiece, or on the front of space permits. | |
| 1. Article Addressed to:<br>Director of International Operations<br>~~International~~<br>Internal Revenue Service<br>Washington D.C.<br>20044 | |
| 2. Article Number 7005 0390 0004 0872 0344 | |
| *COMPLETE THIS SECTION ON DELIVERY* | |
| A. Signature<br>X **CC:PA:LPD:DRU** | ☐ Agent<br>☐ Addressee |
| B. Received by (*Printed Name*)<br>**CC:PA:LPD:DRU** | C. Date of Delivery<br>APR 03 2007 |
| D. Is delivery address different from item 1?<br>If YES, enter delivery address below:<br>ST.03 | ☐ Yes<br>☐ No |
| 3. Service Type<br>☐ Certified Mail ☐ Express Mail<br>☐ Registered ☐ Return Receipt for Merchandise<br>☐ Insured Mail ☐ C.O.D. | |

| 4. Restricted Delivery? (*Extra Fee*) | ☐ Yes |
|---|---|

Domestic Return Receipt

PS Form 3811, February 2004 102595-02-M-1540

Director of International Operations Date: 03- 28-2007
Internal Revenue Service
Washington, D.C. 20044 Certified Mail # 7005
0390 0004 0872 0344

RE: Former Social Security #
[Social Security Number Omitted]

Hagerman New Mexico 88232

**FILING STATEMENT FOR TAX YEAR 2003 IN AFFIDAVIT FORM**

**Pursuant to 26 USC §§6011, 6012, 6103, 6213(g) and 7203.**

Dear Director,

One, H. Clark Ford III, being of sound mind and of the age of majority, having first hand knowledge of the facts and law being addressed in this Filing Statement for the tax year 2003, in Affidavit form, do hereby declare the following:

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Return – The term "return" includes any return, statement, schedule, or list, and any amendment or supplement thereto; filed with respect to any tax imposed by Subtitle A or B, or chapter 41, 42, 43, or 44. This Statement complies with all legal requirements and is a statement or return within the meaning of 26 USC §§6011, 6012 and 6213(g):

The question as to which statute controls a duty to file an income tax return is the subject of many judicial disputes by the top legal minds of this country as evidenced by the following.

In *Commissioner v. Lane-Wells Co.*, 321 U.S. 219, 222, 64 S.Ct. 511, 513 (1944), the Court noted that § 54 of the 1939 Internal Revenue Code, the predecessor for Internal Revenue Code § 6001, related to the (filing requirement; see also *Updike v. United States*, 8 F.2d 913, 915 (8th Cir. 1925). In *True v. United States*, 354 F.2d 323, 324 (Ct.Cl. 1965), *United States v. Carlson*, 260 F.Supp. 423, 425 (E.D.N.Y. 1966), *White v. Commissioner*, 72 U.S.T.C. 1126, 1129 (1979), *McCaskill v. Commissioner*, 77 U.S.T.C. 689, 698 (1981), *Counts v. Commissioner*, 774 F.2d 426, 427 (11th Cir. 1985), *Blount v. Commissioner*, 86 U.S.T.C. 383, 386 (1986), and *Beard v. Commissioner*, 793 F.2d 139 (6th Cir. 1986), these courts held that Internal Revenue Code § 6011 related to the filing requirement. In *United States v. Moore*, 627 F.2d 830, 834 (7th Cir. 1980), *United States v. Dawes*, 951 F.2d 1189, 1192, n. 3 (10th Cir. 1991), and *United States v. Hicks*, 947 F.2d 1356, 1360 (9th Cir. 1991), those courts held that Internal Revenue Code §§ 6011 and 6012 governed this duty. In contrast, the cases of *Steinbrecher v. Commissioner*, 712 F.2d 195, 198 (5th Cir. 1983), *United States v. Bowers*, 920 F.2d 220, 222 (4th Cir. 1990), and *United States v. Neff*, 954 F.2d 698, 699 (11th Cir. 1992), held that only § 6012 the cases of *Steinbrecher v. Commissioner*, 712 F.2d 195, 198 (5th Cir. 1983), *United States v. Bowers*, 920 F.2d 220, 222 (4th Cir. 1990), and *United States v. Neff*, 954 F.2d 698, 699 (11th Cir. 1992), held that only § 6012 governed this duty. But in *United States v. Pilcher*, 672 F.2d 875, 877 (11th Cir. 1982), none of the above

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It is apparent that there exists an extreme vicissitude of opinion in the federal courts regarding which statutes govern the requirement to file income tax returns. It seems apparent to One based upon the learned opinions from cites above listed that a "return" of some sort is expected and required if One has identifiable taxable income. It then becomes a question: "What is a return?" In that answer there is no confusion. A return is defined at 26 USC §§ 6103 and 6213(g) of the Internal Revenue Code, and 26 CFR § 301.7216-1(b)(1).

If the Federal District Courts, Tax Court, Court of Claims and the Supreme Court cannot definitively decide the fundamental question as to which section of the Internal Revenue Code requires the filing of an income tax return, whether the tax imposed is an excise or a direct tax, it is obvious that the average American, not educated in the law, will have great difficulty in understanding the tax imposed and this basic question on filing requirements, and the species of the tax, among many other questions.

Since the courts are so deeply split over this issue, how can anyone understand the law in an atmosphere of judicial incertitude? Due process requires that the law be such that the duty imposed is unambiguous and those subject to it are able to understand the law. This is not the case with Title 26 USC or 26 CFR implementing regulations.

In 1913, a debate on the Senate floor, regarding the first income tax act under the 16th Amendment was held. Senator Elihu Root commented about the complexity of that first law.

*"I guess you will have to go to jail. If that is the result of not understanding the Income Tax Law I shall meet you there. We shall have a merry, merry time, for all of our friends will be there. It will be an intellectual center, for no one understands the Income Tax Law except persons who have not sufficient intelligence to understand the questions that arise under it."*

All the confusion over an eighty-page Act then, is exponentially compounded by the current ten thousand page, plus, internal revenue code 26 USC, along with more than thirty thousand pages of implementing internal revenue regulations 26 CFR and some unauthorized for IRS usage from 27 CFR.

In light of this judicial uncertainty, One is doing One's best to understand and comply with the law and regulations. In light of the courts and indeed of Congress' inability to comprehend and agree with the interpretations within the internal revenue laws, One cannot be held responsible for any misunderstanding of internal revenue law, which One may have. Since there are no consistent rulings upon which One can depend, One is merely doing what One considers as true, correct and lawful. The Internal Revenue Services' guidance to One in this matter is absolutely essential and is hereby demanded by rebuttal Affidavit.

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Any past admissions that One was, or is, at present a "taxpayer" have been made in error and according to the courts;

"*In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used or to enlarge their operations so as to embrace matters not specifically pointed out.*" *Gould v. Gould*, 245 U.S., 151.

One is not authorized to file any form in the Form 1040 series or any other form pertaining to any internal revenue tax for the following reasons:

1. One has not been able to identify any IRS form in the 1040 series, which displays an OMB number relevant to 26 CFR §1.1-1 and §1.11-1. One cannot file under penalty of perjury a form, which One knows to be an incorrect form.

2. One can find no section of Subtitle A, which makes One liable for Subtitle A (income) taxes, and meets the requirements of the Paperwork Reduction Act in providing an OMB number which ties a liability section with Form 1040. Therefore, One firmly believes that One has no liability for Subtitle A taxes and therefore no requirement or authorization to file Form 1040 or any other form relative to Subtitle A (Tax Class 2).

3. It is impossible for One to sign the Form 1040 in that the jurat states under penalty of perjury. As One is not an Officer, Employee or Elected Official who is under Oath of Office, and One has taken no Oath, One cannot sign the Form 1040. To do so, and then while under Oath in a Court of law One stated One did sign under penalty of perjury, One would have created a technical perjury because One was not under Oath when One signed the Form. One may have mislead the government when One signed that Form in the past as One was ignorant of the only way a person can be held under penalty of perjury, i.e., under Oath of Office or under an Oath taken before a Notary or a Judge. One will not make that mistake in the future and One does now instruct you to remove all of One's signatures from past filings of the 1040 Form and other Documents Nunc Pro Tunc.

This return has been mailed to the proper address published in 26 CFR. The Internal Revenue Service Centers no longer have the authority to receive and

process income tax returns. Delegation Order 99 which authorized the Service Centers to receive and process returns, was declared obsolete, such authority having been transferred via the functional statement published in IRM 1100, at 1117.22. The IRM 1117.22 has also been declared obsolete, and no authority has superseded or replaced it The only office listed as authorized to receive returns is the Director of International Operations according to 26 CFR § 1.6091-3.

Regulation at 26 CFR § 1.6091-4 provides an alternative to filing a return in a required district. Therefore, if this return is filed in the incorrect venue, the director will please forward the return pursuant to 26 CFR § 1.6091-4(a)(2) to the proper destination and inform One of that location.

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Title 26 USC §7621 requires the President to establish "internal revenue districts". Even if One wanted to volunteer, it would be impossible for One to comply with any alleged requirement to file Form 1040, in that the Internal Revenue Service has no internal revenue districts assigned and therefore no District Directors exist to whom One could possibly send a return 1040 as per the following:

I. Section 7621- Internal Revenue Districts.

(a) Establishment of revenue districts.

The President shall establish convenient internal revenue districts for the purpose of administering the internal revenue laws. The President may from time to time alter such districts.

Via Reorganization Plan 3 of 1940, President Roosevelt reassigned duties of the Federal Alcohol Administration to the Bureau of Internal Revenue, thereby abolishing an agency Congress established by law in 1935, then via Reorganization Plan 26 of 1950, President Harry S. Truman abolished offices of internal revenue assessors and collectors that had existed since 1862 legislation. But these changes did not adversely affect the American people at large. Since implementation of the Internal Revenue Code of 1954, there have been no Federal internal revenue districts in the several States. *The Internal Revenue Code limits IRS assessment and collection activity to whatever revenue districts are established under authority of 26 USC § 7621.* The vast majority of Internal Revenue Code taxing authority is geographical in nature and is limited to the District of Columbia and insular possessions of the United States, exclusive of the 50 States of the Union.

In 1998, via Executive Order #10289, as amended, President William J. Clinton authorized the Secretary of the Treasury to establish revenue districts under authority of §7621 of the Internal Revenue Code. Although § 7621 isn't listed in the Parallel

Table of Authorities and Rules, E.O. #10289 is listed. The implementing regulation is Title 19 of the Code of Federal Regulations (CFR) Part 101. The regulation establishes "*customs collection offices*" in each state of the Union; it does not establish internal revenue districts. A note at Part 301:7621-1 of Title 26 of the Code of Federal Regulations confirms that E.O. 410289 is the only authority for establishing revenue districts.

The Internal Revenue Service has no jurisdiction in The State of New Mexico and other states of the Union to enforce the internal revenue tax laws, as there exist no "*internal revenue districts*" pursuant to §7621, within the 50 Union states. The Federal tax enigma is resolved to a certain extent in understanding that there is another application of tax other than the geographical. Most of the reorganization plans, executive orders, etc. are intra-governmental in nature. The application is for government agencies and personnel, not the general population of the 50 Union states of the united States of America.

The term "income" is not defined in the Internal Revenue Code; see *United States v. Ballard*, 535 F.2d 400, 404 (8th Cir. 1976). One did not receive "income" as defined in the Code of Federal Regulations at 26 CFR § 1.643(b)-1, which is the only definition of "income" published in the Internal Revenue Code or its corresponding internal revenue regulations.

In *Nicholas v. Fifteenth Street Inv. Co.*, (1939, CA10 Colo.) 105 F2d 289, 39-2 USTC ¶ 9571, it was ruled

that the power of Congress to lay and collect tax on income cannot be extended by legislative definition of the term "income".

Since One did not receive "income" or income form any "source", as identified by the Secretary for purposes of the income tax, One did not receive "gross income", and One did not have "taxable income One has had no 'earned income', or income from any "source" as defined by 26 USC §861 and 26 CFR 1.861.(8) generally, as the only "source" for income tax purposes promulgated by the Secretary is contained in this section One has no federal income tax liability, as One has no income from any source listed. The term "earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered including the the market value of all remuneration paid in any medium other than cash. Earned income is foreign earned income, and must come from sources wholly outside the United States, as evidenced by 26 CFR § 1.911-3, and IRM 3(38)(147) 7.1.

The face of Form 1040 indicates that it originates with the "Department of the Treasury, Internal Revenue Service". One cannot determine who or what this "agency," is, or when or how it originated. Apparently, neither the Department of Treasury nor the National Archives or Records Administration is able to determine who or what the "Internal Revenue Service" is. One cannot file any private financial information with the "Department of the Treasury, Internal Revenue Service", since the IRS and

Commissioner of Internal Revenue Service are entities of unknown power and duties. No confidential financial information will be provided to either, nor agents of either, unless and until One is provided with the documents, which state the origin, powers and duties of these entities, duly recorded in the Federal Register.

It appears that the "Internal Revenue" is the Puerto Rico special (trust) fund, as evidenced by 31 USC § 1321(62), and "internal revenue" is the Philippines special (trust) fund, as evidenced by 31 USC § 1321(2). One has incurred no liability to either the Philippines special fund or the Puerto Rico special fund. It may be a quaint notion, but possibly the Internal Revenue Service could publish in the Federal Register; it's Structure and field offices and other recordings which are mandated by Congress for Agencies of Government by Title S USC §552(a). This certainly would be helpful to all and reduce the uncertainty One now feels with an agency of government, which is invisible to the law.

The Form 1040, if processed, would be processed under the supervision and authority of the Commissioner, Internal Revenue Service. No authority appears to exist for this officer to administer taxes, other than wagering taxes under Treasury Delegation Order 221-3. I have had no wagering income. Therefore, One has no filing and/or tax liability with this Officer. Further, One has not been able to locate any statute, regulation or other document, which

authorizes and/or creates the office of Commissioner, Internal Revenue Service.

One is not the "individual" described at 26 CFR § 1.6017-1. An individual is defined as a person who is liable for self-employment tax in the territories. For purposes of venue, TC 150 pertains only to the Virgin Islands. In *Mills v. United States* CIV-94-114 TUC-JMR (USDC AZ), a Freedom of Information Act lawsuit was instituted by Mr. Fred D. Mills, wherein he requested a copy of the documents indicating that Transaction Code (TC 150) on the Individual Master File, meant anything other than and/or in addition to the Virgin Islands. The U.S. Department of Justice Tax Division stated that " . . . no other responsive document exists." This confirming that Transaction Code 150 means exclusively Virgin Islands, relevant to Venue, as is indicated at IRM 30(55) 4.2(29), now 30(55) 4.2(30).

Based upon the nonexistence of any document other than IRM 30(55) 4.2(29) discloseable under the FOIA, Mr. Mills stipulated to a dismissal with prejudice. Therefore, the input of Transaction Code TC 150 (VIRGIN IS) on One's Individual Master File Transcript for all years is a clear violation of the Privacy Act and Treasury Department Regulations. The information maintained by this system of records, is not accurate, relevant, timely, or complete and is maintained in a system of records not authorized pursuant to Title 5 USC §552(a).

The status assigned to One's files by some entity within the Internal Revenue Service, of TC 150, is either computer fraud or an innocent error of input of data. Whatever the case may be, One demands an immediate correction of the error and a notification from you that the error has been corrected and informing One of the proper Transaction Code assigned and posted.

One has made no election for the Internal Revenue Service to make any return for One, pursuant to 26 USC §§6014 or 6020. The Form 1040 is not approved by the Office of Management and Budget for use in either Substitute Return procedures under 26 USC §6020(b) or deficiency/Substitute for Return procedures under 26 USC §6211.

The Privacy Act System of Records 24.030, Individual Master File (IMF), Returns Processing-Treasury/IRS, is maintained on taxpayers who file Forms 1040 or power of attorney notifications. Since a taxpayer is defined by law as one who operates a distilled spirit Plant and since One does not operate a distilled spirit Plant; the maintenance of any records in such system of records would violate the provisions of the Privacy Act and 31 CFR §§ 0.735-60 and 0.735-310. The records maintained would not be relevant, accurate or complete, and may be an indication of computer fraud.

First and foremost One is a natural born person of one of the Fifty (50) sovereign states of the united States of America the Republic. And One has been so

since birth. One is a non-resident alien to the UNITED STATES and its Territories, the situs of which is Washington, D.C. One is not a State or federal government employee, or a juristic personality and One has informed the IRS of these facts. One is not, nor has One ever been, a non-resident alien "foreigner" for income tax purposes relative to the UNITED STATES. The non-resident alien "foreigner" may have an income tax liability to the UNITED STATES anywhere within the American Empire, regardless of the source of the income.

"No constitutional right exists under the Ninth Amendment, or to any other provision of the Constitution of the United States, " . . . to trust the Federal Government and to rely on the integrity of its pronouncements" *MAPCO, Inc. v Carter* (1978, Em Ct App) 573 F2d 1268, cert den 437 us 904, 57 L Ed 2d 1134, 98 S Ct 3090.

One will be the first to admit that One does not have the intelligence to understand the tax law, as Senator Elihu Root commented in 1913. One does however have the intelligence to ask the questions.

## STATUTORY NOTICE

If there exists any error(s) in any of One's facts or in any of the conclusions drawn from them, please indicate in writing with great specificity, such error(s) and any applicable correction thereto, in conformance with Rev. Proc. 88-1, and 89-1, within 30 days or a

Default will be entered against you. The individual One, H. Clark Ford III, declares under penalty of perjury, pursuant to the common law of The State of New Mexico and the united States of America, that the forgoing is true, accurate, and complete to the best of One's knowledge and belief so help me God.

> Notice is hereby given that this document must be filed as a permanent part of the administrative records/files and any of their records systems and/or files maintained by the Internal Revenue Service on the referenced Declarant/Requester and social security account number. If such records have been substituted or deleted this demand still applies

/s/ H Clark Ford III

Date: March 28, 2007

**NOTORIAL**

**COUNTY OF CHAVEZ**
**STATE OF NEW MEXICO**

On this day of March, 2007 One, H. Clark Ford III, came before me a Notary Public in and for the people of The State of New Mexico, One, H. Clark Ford III, personally known by me, in my presence, under oath declared the truth of the above Statement Filing.

/s/ Robin Purcella
Notary Public

[SEAL]

9/29/07
My Commission Expires:

U.S. Postal Service
**CERTIFIED MAIL RECEIPT**
*(Domestic Mail Only: No Insurance Coverage Provided)*

For delivery information visit our website at www.usps.com:

**OFFICIAL USE**
DENVER, CO [Illegible]

7005 0390 0004 0872 0290

| | | |
|---|---|---|
| Postage | $ .63 | 0602 |
| Certified Fee | 2.40 | 13 |
| Return Receipt Fee (Endorsement Required) | 1.85 | Postmark Here |
| Restricted Delivery Fee (Endorsement Required) | 0.00 | |
| Total Postage & Fees | $ 4.88 | [Illegible] |

*Sent To*
M. Pryor 84-10124

*Street, Apt. No.; or PO Box No.*
12600 [Illegible]

*City, State, Zip + 4*
LAKEWOOD, COLORADO 80215

PS Form 3800, June 2002 See Reverse for Instructions

Copy to Pryor

7005-0390-0004-0872-0290

Director of International Operations Date: 03-28-2007
Internal Revenue Service
Washington, D.C. 20044 Certified Mail # 7005 0390 0004 0872 0344

RE: Former Social Security # [Social Security Number Omitted]

Hagerman New Mexico 88232

**FILING STATEMENT FOR TAX YEAR 2003 IN AFFIDAVIT FORM**

**Pursuant to 26 USC §§6011, 6012, 6103, 6213(g) and 7203.**

Dear Director,

One, H. Clark Ford III, being of sound mind and of the age of majority, having first hand knowledge of the facts and law being addressed in this Filing Statement for the tax year 2003, in Affidavit form, do hereby declare the following:

This is a return, for the year 2003 as One can at best define at 26 USC §§ 6103 and 6213(g) of the Internal Revenue Code, and 26 CFR § 301.7216-1(b)(1). As defined at 26 USC §§ 6103 and 6213(g) of the Internal Revenue Code, and 26 CFR § 301.7216-1(b)(1) this is a return for the year 2003. This return is filed in lieu of an Internal Revenue Service Form 1040 series and satisfies the requirements of IRC § 6012. One has read the law and understands that all past filings of Internal Revenue Service Form 1040 by H. Clark Ford III have been in error. One's past misunderstanding of

the law does not in any way reflect recognition on One's part of any legal requirement or authorization to file Form 1040 and/or 1040A and/or 1040EZ and/or 1040SS. The assigned OMB number assigned to those Forms identifies the class of individual who is required to file those forms. One is not of that class of individual defined.

Title 26 USC § 6012, states that every person liable for any income ("internal revenue") tax must file a return or statement as provided by law. For the reasons stated herein, One believes that One, is not liable for any internal revenue income tax or filing requirement. However, this statement is filed in order to avoid ambiguity or confusion regarding One's filing requirement and status as well as to avoid any possible sanctions for failure to file. If One is incorrect in One's understanding, One directs you to immediately inform One of One's mistake and identify the Form or Statement One is required to file, if any.

Return. – The term "return" includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by Subtitle A or B, or chapter 41, 42, 43, or 44. This Statement complies with all legal requirements and is a statement or return within the meaning of 26 USC §§6011, 6012 and 6213(g):

The question as to which statute controls a duty to file an income tax return is the subject of many judicial disputes by the top legal minds of this country as evidenced by the following.

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In 1998, via Executive Order #10289, as amended, President William J. Clinton authorized the Secretary of the Treasury to establish revenue districts under authority of §7621 of the Internal Revenue Code. Although § 7621 isn't listed in the Parallel Table of Authorities and Rules, E.O. #10289 is listed. The implementing regulation is

> Title 19 of the Code of Federal Regulations (CFR) Part 101. The regulation establishes "*customs collection offices*" in each state of the Union; it does not establish internal revenue districts. A note at Part 301.7621-1 of Title 26 of the Code of Federal Regulations confirms that E.O. #10289 is the only authority for establishing revenue districts.

The Internal Revenue Service has no jurisdiction in The State of New Mexico and other states of the Union to enforce the internal revenue tax laws, as there exist no "*internal revenue districts*" pursuant to §7621, within the 50 Union states. The Federal tax enigma is resolved to a certain extent in understanding that there is another application of tax other than the geographical. Most of the reorganization plans, executive orders, etc. are intra-governmental in nature. The application is for government agencies and personnel, not the general population of the 50 Union states of the united States of America.

The term "income" is not defined in the Internal Revenue Code; see *United States v. Ballard,* 535 F.2d 400, 404 (8th Cir. 1976). One did not receive "income" as defined in the Code of Federal Regulations at 26 CFR § 1.643(b)-1, which is the only definition of "income" published in the Internal Revenue Code or its corresponding internal revenue regulations.

In *Nicholas v. Fifteenth Street Inv. Co.,* (1939, CA10 Colo.) 105 F.2d 289, 39-2 USTC ¶ 9571, it was ruled that the power of Congress to lay and collect tax on

income cannot be extended by legislative definition of the term "income".

Since One did not receive "income" or income form [sic] any "source", as identified by the Secretary for purposes of the income tax, One did not receive "gross income", and One did not have "taxable income". One has had no 'earned income', or income from any "source" as defined by 26 USC §861 and 26 CFR 1.861.(8) generally, as the only "source" for income tax purposes promulgated by the Secretary is contained in this section One has no federal income tax liability, as One has no income from any source listed. The term "earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered including the fair market value of all remuneration paid in any medium other than cash. Earned income is foreign earned income, and must come from sources wholly outside the United States, as evidenced by 26 CFR § 1.911-3, and IRM 3(38)(147) 7.1.

The face of Form 1040 indicates that it originates with the "Department of the Treasury, Internal Revenue Service". One cannot determine who or what this "agency" is, or when or how it originated. Apparently, neither the Department of Treasury nor the National Archives or Records Administration is able to determine who or what the "Internal Revenue Service" is. One cannot file any private financial information with the "Department of the Treasury, Internal Revenue Service", since the IRS and Commissioner of Internal Revenue Service are entities of

unknown power and duties. No confidential financial information will be provided to either, nor agents of either, unless and until One is provided with the documents, which state the origin, powers and duties of these entities, duly recorded in the Federal Register.

It appears that the "Internal Revenue" is the Puerto Rico special (trust) fund, as evidenced by 31 USC § 1321(62), and "internal revenue" is the Philippines special (trust) fund, as evidenced by 31 USC § 1321(2). One has incurred no liability to either the Philippines special fund or the Puerto Rico special fund. It may be a quaint notion, but possibly the Internal Revenue Service could publish in the Federal Register, it's Structure and field offices and other recordings which are mandated by Congress for Agencies of Government by Title 5 USC §552(a). This certainly would be helpful to all and reduce the uncertainty One now feels with an agency of government, which is invisible to the law.

The Form 1040, if processed, would be processed under the supervision and authority of the Commissioner, Internal Revenue Service. No authority appears to exist for this officer to administer taxes, other than wagering taxes under Treasury Delegation Order 221-3. I have had no wagering income. Therefore, One has no filing and/or tax liability with this Officer. Further One has not been able to locate any statute, regulation or other document, which authorizes and/or creates the office of Commissioner, Internal Revenue Service.

One is not the "individual" described at 26 CFR § 1.6017-1. An individual is defined as a person who is liable for self-employment tax in the territories. For purposes of venue, TC 150 pertains only to the Virgin Islands. In *Mills* v. *United States* CIV-94-114-TUC-JMR (USDC AZ), a Freedom of Information Act lawsuit was instituted by Mr. Fred D. Mills, wherein he requested a copy of the documents indicating that Transaction Code (TC 150) on the Individual Master File, meant anything other than and/or in addition to the Virgin Islands. The U.S. Department of Justice Tax Division stated that, " . . . no other responsive document exists." This confirming that Transaction Code 150 means exclusively Virgin Islands, relevant to Venue, as is indicated at IRM 30(55) 4.2(29), now 30(55) 4.2(30).

Based upon the nonexistence of any document other than IRM 30(55) 4.2(29) discloseable under the FOIA, Mr. Mills stipulated to a dismissal with prejudice. Therefore, the input of Transaction Code TC 150 (VIRGIN IS) on One's Individual Master File Transcript for all years is a clear violation of the Privacy Act and Treasury Department Regulations. The information maintained by this system of records, is not accurate, relevant, timely, or complete and is maintained in a system of records not authorized pursuant to Title 5 USC §552(a).

The status assigned to One's files by some entity within the Internal Revenue Service, of TC 150, is either computer fraud or on innocent error of input of data. Whatever the case may be, One demands an

immediate correction of the error and a notification from you that the error has been corrected and informing One of the proper Transaction Code assigned and posted.

One has made no election for the Internal Revenue Service to make any return for One, pursuant to 26 USC §§6014 or 6020. The Form 1040 is not approved by the Office of Management and Budget for use in either Substitute Return procedures under 26 USC §6020(b) or deficiency/Substitute for Return procedures under 26 USC §6211.

The Privacy Act System of Records 24.030, Individual Master File (IMF), Returns Processing – Treasury/ IRS, is maintained on taxpayers who file Forms 1040 or power of attorney notifications. Since a taxpayer is defined by law as one who operates a distilled spirit Plant and since One does not operate a distilled spirit Plant; the maintenance of any records in such system of records would violate the provisions of the Privacy Act and 31 CFR §§ 0.735-60 and 0.735-310. The records maintained would not be relevant, accurate or complete, and may be an indication of computer fraud.

First and foremost One is a natural born person of one of the Fifty (50) sovereign states of the united States of America the Republic. And One has been so since birth. One is a non-resident alien to the UNITED STATES and its Territories, the sites [sic] of which is Washington, D.C., One is not a State or federal government employee, or a juristic personality and One

has informed the IRS of these facts. One is not, nor has One ever been, a non-resident alien "foreigner" for income tax purposes relative to the UNITED STATES. The non-resident alien "foreigner" may have an, income tax liability to the UNITED STATES anywhere within the American Empire, regardless of the source of the income.

"No constitutional right exists under the Ninth Amendment, or to any other provision of the Constitution of the United States, " . . . to trust the Federal Government and to rely on the integrity of its pronouncements." *MAPCO, Inc. v Carter* (1978, Em Ct App) 573 F2d 1268, cert den 4:37 us 904, 57 L Ed 2d 1134, 98 S Ct 3090.

One will be the first to admit that One does not have the intelligence to understand the tax law, as Senator Elihu Root commented in 1913. One does however have the intelligence to ask the questions.

## STATUTORY NOTICE

If there exists any error(s) in any of One's facts or in any of the conclusions drawn from them, please indicate in writing with great specificity, such errors) and any applicable correction thereto, in conformance with Rev. Proc. 88-1, and 89-1, within 30 days or a Default will be entered against you. The individual One, H. Clark Ford III, declares under penalty of perjury, pursuant to the common law of The State of New Mexico and the united States of America, that

the forgoing is true, accurate, and complete to the best of One's knowledge and belief, so help me God.

Notice is hereby given that this document must be filed as a permanent part of the administrative records/files and any of their records systems and/or files maintained by the Internal Revenue Service on the referenced Declarant/Requester and social security account number. If such records have been substituted or deleted this demand still applies

/s/ H. Clark Ford III

Date: March 28, 2007

**NOTORIAL**

**COUNTY OF CHAVES**
**STATE OF NEW MEXICO**

On this day of March, 2007 One, H. Clark Ford III came before me a Notary Public in and for the people of The State of New Mexico, One, H. Clark Ford III, personally known by me, in my presence, under oath declared the truth of the above Statement Filing.

/s/ Robin Percella
Notary Public

[SEAL]

9/29/07
My Commission Expires:

U.S. Postal Service
**CERTIFIED MAIL RECEIPT**
*(Domestic Mail Only; No Insurance Coverage Provided)*

For delivery information visit our website at www.usps.com®

**OFFICIAL USE**

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| Postage | $ .60 | |
| Certified Fee | 2.30 | |
| Return Receipt Fee (Endorsement Required) | 1.75 | Postmark Here |
| Restricted Delivery Fee (Endorsement Required) | | (Hagerman NM 88232 |
| Total Postage & Fees | $ 4.65 | Apr. 15, 2005 USPS) |

7004 0750 0004 0199 7377

*Sent To*
Director of International Operations

*Street, Apt. No.; or PO Box No.*
Internal Revenue Service

*City, State, Zip+4*
Washington D.C. 20044

PS Form 3800, June 2002 See Reverse for Instructions

Director of International Operations April 15th 2005:
Internal Revenue Service
Washington, D.C. 20044 Certified Mail # 7004
0750-0004-0199-7377

(Former Soc. Sec. #
[Social Security Number
Omitted])

Horatio Clark Ford III
PO Box 424
Hagerman New Mexico 88232

**FILING STATEMENT FOR TAX YEAR (2004) IN AFFIDAVIT FORM**

**Pursuant to 26 USC §§6011, 6012, 6103, 6213(g) and 7203.**

Dear Director,

One Horatio Clark Ford III being of sound mind and of the age of majority, having first hand knowledge of the facts and law being addressed in this Filing Statement for the tax year 2004, in Affidavit form, do hereby declare the following:

This is a return, for the year 2004 as One can at best define at 26 USC §§ 61.03 and 6213(g) of the Internal Revenue Code, and 26 CFR § 301.7216-1(b)(1). This return is filed in lieu of an Internal Revenue Service Form 1040 series and satisfies the requirements of IRC § 6012. One has read the law and understands that all past filings of Internal Revenue Service Form 1040 by me have been in error. My past misunderstanding of the law does not in any

way reflect recognition on my part of any legal requirement or authorization to file Form 1040 and/or. 1040A and/or 1040EZ and/or 1040SS.The assigned OMB number identifies the class of individual who is required to file those forms. One is not of that class of individual defined.

Title 26 USC § 6012, states that every person liable for any income "internal revenue" tax must file a return. or statement as provided by law: For the reasons stated herein, One believes that One, is not liable for any internal revenue income tax, or filing requirement. However, this statement is filed in order to avoid ambiguity or confusion regarding my filing requirement and status as well as to avoid any possible sanctions for failure to file. If One is incorrect in my understanding, One directs you to immediately inform me of my mistake and identify the Form or Statement One is required to file, if any.

Return. – The term "return" includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by Subtitle A or B, or chapter 41, 42, 43, or 44. This Statement complies with all legal requirements and is a statement or return within the meaning of 26 USC §§6011, 6012 and 6213(g):.

The question as to which statute controls a duty to file an income tax return is the subject of many judicial disputes by the top legal minds of this country as evidenced by the following.

In *Commissioner v. Lane-Wells Co.,* 321 U.S. 219, 222, 64 S.Ct 511, 513 (1944), the Court noted that § 54 of the 1939 Internal Revenue Code, the predecessor for Internal Revenue Code § 6001, related to the filing requirement; see also *Updike v. United States*, 8 F.2d 913, 915 (8th Cir. 1925). In *True v. United States,* 354 F.2d 323, 324 (CtCl. 1965), *United States v. Carlson,* 260 F.Supp. 423, 425 (E.D.N.Y. 1966), *White v. Commissioner,* 72 U.S.T.C. 1126, 1129 (1979), *McCaskill v. Commissioner,* 77 U.S.T.C. 689, 698 (1981), *Counts v. Commissioner,* 774 F.2d 426, 427 (11th Cir. 1985), *Blount v. Commissioner,* 86 U.S.T.C. 383, 386 (1986), and *Beard v. Commissioner,* 793 F.2d 139 (6th Cir. 1986), these courts held that Internal Revenue Code § 6011 related to the filing requirement. In *United States v. Moore,* 627 F.2d 830, 834 (7th Cir. 1980), *United States v. Dawes,* 451 F.2d 1189, 1192, n. 3 (10th Cir. 1991), and *United States v. Hicks,* 947 F.2d 1356, 1360 (9th Cir. 1991), those courts held that Internal Revenue Code §§ 6011 and 6012 governed this duty. In contrast, the cases of *Steinbrecher v. Commissioner,* 712 F.2d 195, 198 (5th Cir. 1983), *United States v. Bowers,* 920 F2d 220, 222 (4th Cir. 1990), and *United States v. Neff,* 954 F.2d 698, 699 (11th Cir. 1992), held that only § 6012 governed this duty. But in *United States v. Pilcher,* 672 F.2d 875, 877 (11th Cir. 1982), none of the above sections were mentioned and it was held that §7203 required returns to be filed.

It is apparent that there exists an extreme vicissitude of opinion in the federal courts regarding which

statutes govern the requirement to file income tax returns.

If the Federal District Courts, Tax Court, Court of Claims and the Supreme Court cannot definitively decide the fundamental question as to which section of the Internal Revenue Code requires the filing of an income tax return, whether the tax imposed is an excise or a direct tax, it is obvious that the average American, not educated in the law, will have great difficulty in understanding the tax imposed and this basic question on filing requirements, the species of the tax, among many other questions.

Since the courts are so deeply split over this issue, how can anyone understand the law in an atmosphere of judicial incertitude? Due process requires that the law be such that the duty imposed is unambiguous and those subject to it are able to understand the law. This is not the case with Title 26 USC or 26 CFR implementing regulations.

In 1913, a debate on the Senate floor, regarding the first income tax act under the 16th Amendment was held. Senator Elihu Root commented about the complexity of that first law:

*"I guess you will have to go to jail. If that is the result of not understanding the Income Tax Law I shall meet you there. We shall have a merry, merry time, for all of our friends will be there. It will be an intellectual center, for no one understands the Income Tax Law except persons who have not sufficient intelligence to understand the questions that arise under it."*

All the confusion over an eighty-page Act then, is exponentially compounded by the current ten thousand page, plus, internal revenue code 26 USC, along with more than thirty thousand pages of implementing internal revenue regulations 26 CFR and some unauthorized for IRS usage from 27 CFR.

In light of this judicial uncertainty, One is doing my best to understand and comply with the law and regulations. In light of the courts' and indeed of the Congress' inability to comprehend and agree with the interpretations within the internal revenue laws, One cannot be held responsible for any misunderstanding of internal revenue law, which One may have. Since there are no consistent rulings upon which One can depend, One is merely doing what One considers as true, correct and lawful. The Internal Revenue Services' guidance to me in this matter is absolutely essential and is hereby demanded by rebuttal Affidavit.

Title 26 USC § 7701(a)(14) defines a taxpayer as follows: "The term "taxpayer" means any person subject to any internal revenue tax." The phrase Internal revenue tax" does not appear in the Internal Revenue Code until Subtitle E: Alcohol, Tobacco and Certain Other Excise Taxes. 26 USC § 5005, entitled "Persons Liable for Tax", provides that proprietors of distilled spirit plants are the persons liable for internal revenue tax. Since One is not the operator of a distilled spirit plant, One is not, by that definition, subject to any internal revenue tax, and therefore, One is not, by definition, a "taxpayer".

Any past admissions that One was or am at present a "taxpayer" have been made in error and according to the court;

*"In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out." Gould v. Gould,* 245 U.S., 151.

One is not authorized to file any form in the Form 1040 series or any other form pertaining to any internal revenue tax for the following reasons:

1. One has not been able to identify any IRS form in the 1040 series, which displays an OMB number relevant to 26 CFR §1.1-1 and §1.1 1-1. One cannot file under penalty of perjury a form, which One knows to be the incorrect form for me.

2. One can find no section of Subtitle A, which makes me liable for Subtitle A (income) taxes, and meets the requirements of the Paperwork Reduction Act in providing an OMB number which ties a liability section with Form 1040. Therefore, One firmly believes that One has no liability for Subtitle A taxes and therefore no requirement or authorization to file Form 1040 or any other form relative to Subtitle A (Tax Class 2).

   This return has been mailed to the proper address published in 26 CFR. The Internal Revenue Service Centers no longer-have the authority to receive and process income tax returns.

Delegation Order 99 which authorized the Service Centers to receive and process returns, was declared obsolete, such authority having been transferred via the functional statement published in IRM 1100, at 1117.22. The IRM 1117.22 has also been declared obsolete, and no authority has superseded or replaced it. The only office listed as authorized to receive returns is the Director of International Operations according to 26 CFR § 1.6091-3.

Regulation at 26 CFR § 1.6091-4 provides an alternative to filing a return in a required district Therefore, if this return is filed in the incorrect venue, the director will please forward the return pursuant to 26 CFR § 1.6091-4(a)(2) to the proper destination and inform me of that location.

As there are presently no internal revenue districts authorized by law, it is difficult for one to know exactly what is to be filed, when or where. Perhaps a review of the following will explain my confusion with the matter:

Title 26 USC §7621 requires the President to establish "internal revenue districts". Even if One wanted to volunteer, it would be impossible for me to comply with any alleged requirement to file Form 1040; in that the Internal Revenue Service has no internal revenue districts assigned and therefore no District Directors exist to whom One could possibly send a return 1040 as per the following:

1. Section 7621- Internal Revenue Districts.

(a) Establishment of revenue districts.

The President shall establish convenient internal revenue districts for the purpose of administering the internal revenue laws. The President may from time to time alter such districts.

Via Reorganization Plan 3 of 1940, President Roosevelt reassigned duties of the Federal Alcohol Administration to the Bureau of Internal Revenue, thereby abolishing an agency Congress established by law in 1935, then via Reorganization Plan 26 of 1950, President Harry S. Truman abolished offices of internal revenue assessors and collectors that had existed since 1862 legislation. But these changes did not adversely affect the American people at large. Since implementation of the Internal Revenue Code of 1954, there have been no Federal internal revenue districts in the several States. *The Internal Revenue Code limits IRS assessment and collection activity to whatever revenue districts are established under authority of 26 USC § 7621.* The vast majority of Internal Revenue Code taxing authority is geographical in nature and is limited to the District of Columbia and insular possessions of the United States, exclusive of the 50 States of the Union.

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authorizes and/or creates the office of Commissioner, internal Revenue Service.

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Based upon the nonexistence of any document other than IRM 30(55) 4.2(29) discloseable under the FOIA, Mr. Mills stipulated to a dismissal with prejudice. Therefore, the input of Transaction Code TC 150 (VIRGIN IS) on my Individual Master File Transcript for all years is a clear violation of the Privacy Act and Treasury Department Regulations. The information maintained by this system of records, is not accurate, relevant, timely, or complete and is maintained in a system of records not authorized pursuant to Title 5 USC §552(a).

The status assigned to me by some entity within the Internal Revenue Service, of TC 150, is either computer fraud or an innocent error of input of data. Whatever the case may be One demands an immediate correction of the error and a notification from you that the error has been corrected and informing me of the proper Transaction Code assigned to me.

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First and foremost One is a natural person of the State of New Mexico and of the united States of America and One have been so since birth. One is a non-resident alien to the UNITED STATES and its

Territories, the situs of which is Washington, D.C., One is not a state or federal government employee, or a juristic personality and One has informed the IRS of these facts. One is not nor has One ever been a non-resident alien "foreigner" for income tax purposes relative to the UNITED STATES. The non resident alien "foreigner" may have an income tax liability to the UNITED STATES anywhere within the American Empire, regardless of the source of the income.

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One will be the first to admit that One does not have the intelligence to understand the tax law, as Senator Elihu Root commented in 1913. One does however have the intelligence to ask the questions.

## STATUTORY NOTICE

If there exists any error(s) in any of my facts or in any of the conclusions drawn from them, please indicate in writing with great specificity, such error(s) and any applicable correction thereto, in conformance with Rev. Proc. 88-1, and 89-1, within 30 days or a Default will be entered against you. The individual responding will sign the rebuttal Affidavit under penalty of perjury. Time is of the essence.

Please supply documentation to support any contention on your part that One is or that One may be in error in any of the foregoing conclusions. If you do not respond in the time prescribed to this Filing Statement in Affidavit Form for the year 2004, One will assume that One is correct in my understanding of the tax code and that One is in compliance with the law.

Horatio Clark Ford III declares under penalty of perjury, pursuant to the common law of the State of New Mexico and the united States of America, that the forgoing is true, accurate, and complete to the best of my knowledge and belief, so help me God.

/s/ H. Clark Ford III

Date:

**NOTORIAL**

**State of New Mexico**

**County of ~~Chavez~~ Chaves**

On this 15th day of April, 2005 Horatio Clark Ford III, came before me a Notary Public in and for the people of the State of New Mexico, Horatio Clark Ford III personally known by me, in my presence, under oath declared the truth of the above Statement Filing.

/s/ Beverly West

U.S. Postal Service
**CERTIFIED MAIL RECEIPT**
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For delivery information visit our website at www.usps.com:

**OFFICIAL USE**

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| Postage | $ .63 | Copy of 2005 Statement |
| Certified Fee | 2.40 | |
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| Restricted Delivery Fee (Endorsement Required) | 1.85 | |
| Total Postage & Fees | $ 4.88 | |

7005 1820 0002 7109 9410

*Sent To*
MIKE PRYOR [Copy 2005]

*Street, Apt. No.; or PO Box No.*

*City, State, Zip + 4*

PS Form 3800, June 2002 See Reverse for Instructions

**SENDER** *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MIKE PRYOR ID # 84-10124
Internal Revenue Service
12600 W. Colfax AVE
SUITE C-300
LAKE WOOD COLORADO 80215

2. Article Number 7005 1820 0002 7109 9410
*(Transfer from service label)*

*COMPLETE THIS SECTION ON DELIVERY*

A. Signature
X Sonja Youngberg ☒ Agent ☐ Addressee

| B. Received by (*Printed Name*) | C. Date of Delivery |
|---|---|
| Sonja Youngberg | 4/3/06 |

D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

COPY TO PRYOR

ANNUAL STATEMENT 2005

| | |
|---|---|
| 3. Service Type | |
| ☒ Certified Mail | ☐ Express Mail |
| ☐ Registered | ☐ Return Receipt for Merchandise |
| ☐ Insured Mail | ☐ C.O.D. |
| 4. Restricted Delivery? (*Extra Fee*) | ☐ Yes |

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[Copy of 2005 Statement to U.S. Dept. of Treasury]

U.S. Postal Service
**CERTIFIED MAIL RECEIPT**
*(Domestic Mail Only; No Insurance Coverage Provided)*

For delivery information visit our website at www.usps.com:

**OFFICIAL USE**
Washington D.C.

| | | | |
|---|---|---|---|
| Postage | $ | .63 | UNIT ID: 0602 |
| Certified Fee | | 2.40 | |
| Return Receipt Fee (Endorsement Required) | | 1.85 | **Forgot to copy** |
| Restricted Delivery Fee (Endorsement Required) | | | Postmark Here |
| Total Postage & Fees | $ | 4.88 | Clerk: KQ7GZY 4/13/06 |

7005 0390 0004 0871 9423

| |
|---|
| *Sent To*<br>US DEPT. of TREASURY, HON JOHN SNOW |
| *Street, Apt. No.; or PO Box No.*<br>1500 PENN AVE |
| *City, State, Zip + 4*<br>WASHINGTON D.C. 20224 |
| PS Form 3800, June 2002 See Reverse for Instructions |

| SENDER *COMPLETE THIS SECTION* |
|---|
| ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.<br>■ Print your name and address on the reverse so that we can return the card to you.<br>■ Attach this card to the back of the mailpiece, or on the front if space permits. |
| 1. Article Addressed to:<br>UNITED STATES DEPT OF TREASURY<br>HON. JOHN SNOW – SEC.<br>1500 PENNSYLVANIA AVE<br>WASHINGTON D.C. |
| 2. Article Number 7005 0390-0004-0871-9423<br>*(Transfer from service label)* |

| *COMPLETE THIS SECTION ON DELIVERY* | | |
|---|---|---|
| A. Signature<br>X [Illegible] | ☐ Agent<br>☐ Addressee | |
| B. Received by (*Printed Name*)<br>APR 21 2006 | C. Date of Delivery | |
| D. Is delivery address different from item 1?<br>If YES, enter delivery address below:<br>Annual – | | ☐ Yes<br>☐ No |
| 3. Service Type<br>☑ Certified Mail ☐ Express Mail<br>☐ Registered ☐ Return Receipt for Merchandise<br>☐ Insured Mail ☐ C.O.D. | | |
| 4. Restricted Delivery? (*Extra Fee*) | | ☐ Yes |

[Copy 2005]

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7005 0390 0004 0871 9423

| | | |
|---|---|---|
| Postage | $ .63 | UNIT ID: 0602 |
| Certified Fee | 2.40 | |
| Return Receipt Fee (Endorsement Required) | 1.85 | **Forgot to copy** |
| Restricted Delivery Fee (Endorsement Required) | | Postmark Here |
| Total Postage & Fees | $ 4.88 | Clerk: KQ7GZY 4/13/06 |

*Sent To*
US DEPT. of Treasury, Hon John Snow

*Street, Apt. No.; or PO Box No.*
1500 PENN AVE

*City, State, Zip + 4*
Washington D.C. 20224

PS Form 3800, June 2002 See Reverse for Instructions

**SENDER** *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front of space permits.

1. Article Addressed to:

   United States Department of Treasury

   Hon. John Snow – SEC.

   1500 Pennsylvania AVE

   Washington D.C.

2. Article Number 7005 0390-0004-0871-9423
   *(Transfer from service label)*

*COMPLETE THIS SECTION ON DELIVERY*

A. Signature
X [Illegible] ☐ Agent ☐ Addressee

B. Received by (*Printed Name*) | C. Date of Delivery APR 21 2006

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Annual

3. Service Type

| | |
|---|---|
| ☑ Certified Mail | ☐ Express Mail |
| ☐ Registered | ☐ Return Receipt for Merchandise |
| ☐ Insured Mail | ☐ C.O.D. |
| 4. Restricted Delivery? (*Extra Fee*) | ☐ Yes |

U.S. Postal Service
**CERTIFIED MAIL RECEIPT**
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| | | | |
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| Return Receipt Fee (Endorsement Required) | | 1.85 | Postmark Here |
| Restricted Delivery Fee (Endorsement Required) | | | Clerk: KQ7GZY |
| Total Postage & Fees | $ | 4.88 | 4/13/06 [Illegible] |

7006 0100 0007 3054 1691

*Sent To*
DIRECTOR OF INTERNATIONAL OPERATIONS

*Street, Apt. No.; or PO Box No.*
INTERNAL REVENUE SERVICE

*City, State, Zip + 4*
WASHINGTON D.C. 20224

PS Form 3800, June 2002 See Reverse for Instructions

U.S. Postal Service
**CERTIFIED MAIL RECEIPT**
*(Domestic Mail Only: No Insurance Coverage Provided)*

For delivery information visit our website at www.usps.com:

**OFFICIAL USE**
Washington D.C. 20224

| | | |
|---|---|---|
| Postage | $ .63 | UNIT ID: 0602 |
| Certified Fee | 2.40 | **Forgot to copy** |
| Return Receipt Fee (Endorsement Required) | 1.85 | Postmark Here |
| Restricted Delivery Fee (Endorsement Required) | | Clerk: KQ7GZY |
| Total Postage & Fees | $ 4.88 | 4/13/06 [Illegible] |

7006 0100 0007 3054 1691

| *Sent To*<br>Director of International Operations |
|---|
| *Street, Apt. No.; or PO Box No.*<br>Internal Revenue Service |
| *City, State, Zip + 4*<br>**Washington D.C. 20224** |

**PS Form 3800, June 2002 See Reverse for Instructions**

| **SENDER** *COMPLETE THIS SECTION* |
|---|
| ■ **Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.**<br>■ Print your name and address on the reverse so that we can return the card to you.<br>■ Attach this card to the back of the mailpiece, or on the front if space permits. |
| 1. Article Addressed to:<br>Director of International Operations<br>Washington D.C. 20224 |
| 2. Article Number 7006 0100-0007-3054 1691<br>*(Transfer from service label)* |

Director of International Operations
Internal Revenue Service
Washington, D.C. 20054

March 31, 2006

Certified Mail # 7006 0100 0007 3054 1691

(Account. # [Social Security Number Omitted] not in person)

Horatio Clark Ford III
PO Box 424
Hagerman New Mexico 88232

**FILING STATEMENT FOR TAX YEAR (2005) IN AFFIDAVIT FORM**

**Pursuant to 26 USC §§6011, 6012, 6103, 6213(g) and 7203. For year 2005**

Dear Director,

One Horatio Clark Ford III being of sound mind and of the age of majority, having first hand knowledge of the facts and law being addressed in this Filing Statement for the tax year 2005, in Affidavit form, do hereby declare the following:

This is a return, for the year 2005 as One can at best define at 26 USC §§ 6103 and 6213(g) of the Internal Revenue Code, and 26 CFR § 301.7216-1(b)(1). This return is filed in lieu of an Internal Revenue Service Form 1040 series and satisfies the requirements of IRC§ 6012. One, H Clark Ford III has read the law and understands that all past filings of Internal Revenue Service Form 1040 by me have been in error. My past misunderstanding of the law does not in any

way reflect recognition on my part of any legal requirement or authorization to file Form 1040 and/or 1040A and/or 1040EZ and/or 1040SS. The assigned OMB number identifies the class of individual who is required to file those forms. One is not of that class of individual defined.

Title 26 USC § 6012, states that every person liable for any income "internal revenue" tax must file a return or statement as provided by law. For the reasons stated herein, One believes that One, is not liable for any internal revenue income tax or filing requirement. However, this statement is filed in order to avoid ambiguity or confusion regarding my filing requirement and status as well as to avoid any possible sanctions for failure to file. If One is incorrect in my understanding, One directs you to immediately inform me of my mistake and identify the Form or Statement One is required to file, if any.

Return. – The term "return" includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by Subtitle A or B, or chapter 41, 42, 43, or 44. This Statement complies with all legal requirements and is a "statement" or "return" within the meaning of 26 USC §§6011, 6012 and 6213(g):

The question as to which statute controls a duty to file an income tax return is the subject of many judicial disputes by the top legal minds of this country as evidenced by the following:

In *Commissioner v. Lane-Wells Co.*, 321 U.S. 219, 222, 64 S.Ct. 511, 513 (1944), the Court noted that § 54 of the 1939 Internal Revenue Code, the predecessor for Internal Revenue Code § 6001, related to the filing requirement; see also *Updike v. United States*, 8 F.2d 913, 915 (8th Cir. 1925). In *True v. United States*, 354 F.2d 323, 324 (CtCl. 1965), *United States v. Carlson*, 260 F.Supp. 423, 425 (E.D.N.Y. 1966), *White v. Commissioner*, 72 U.S.T.C. 1126, 1129 (1979), *McCaskill v. Commissioner*, 77 U.S.T.C. 689, 698 (1981), *Counts v. Commissioner*, 774 F.2d 426, 427 (11th Cir. 1985), *Blount v. Commissioner*, 86 U.S.T.C. 383, 386 (1986), and *Beard v. Commissioner*, 793 F.2d 139 (6th Cir. 1986), these courts held that Internal Revenue Code § 6011 related to the filing requirement. In *United States v. Moore*, 627 F.2d 830, 834 (7th Cir. 1980), *United States v. Dawes*, 951 F.2d 1189, 1192, n. 3 (10th Cir. 1991), and *United States v. Hicks*, 947 F.2d 1356, 1360 (9th Cir. 1991), those courts held that Internal Revenue Code §§ 6011 and 6012 governed this duty. In contrast, the cases of *Steinbrecher v. Commissioner*, 712 F.2d 195, 198 (5th Cir. 1983), *United States v. Bowers*, 920 F.2d 220, 222 (4th Cir. 1990), and *United States v. Neff*, 954 F.2d 698, 699 (11th Cir. 1992), held that only § 6012 governed this duty. But in *United States v. Pilcher*, 672 F.2d 875, 877 (11th Cir. 1982), none of the above sections were mentioned and it was held that §7203 required returns to be filed.

It is apparent that there exists an extreme vicissitude of opinion in the federal courts regarding which

statutes govern the requirement to file income tax returns.

If the Federal District Courts, Tax Court, Court of Claims and the Supreme Court cannot definitively decide the fundamental question as to which section of the Internal Revenue Code requires the filing of an income tax return, whether the tax imposed is an excise or a direct tax, it is obvious that the average American, not educated in the law, will have great difficulty in understanding the tax imposed and this basic question on filing requirements, the species of the tax, among many other questions.

Since the courts are so deeply split over this issue, how can anyone understand the law in an atmosphere of judicial incertitude? Due process requires that the law be such that the duty imposed is unambiguous and those subject to it are able to understand the law. This is not the case with Title 26 USC or 26 CFR implementing regulations.

In 1913, a debate on the Senate floor regarding the first income tax act under the 16th Amendment was held. Senator Elihu Root commented about the complexity of that first law.

"*I guess you will have to go to jail. If that is the result of not understanding the Income Tax Law I shall meet you there. We shall have a merry, merry time, for all of our friends will be there. It will be an intellectual center, for no one understands the Income Tax Law except persons who have not sufficient intelligence to understand the questions that arise under it.*"

All the confusion over an eighty-page Act then, is exponentially compounded by the current ten thousand page, plus, internal revenue code 26 USC, along with more than thirty thousand pages of implementing internal revenue regulations 26 CFR and some unauthorized for IRS usage from 27 CFR.

In light of this judicial uncertainty, One H. Clark Ford III is doing his best to understand and comply with the law and regulations. In light of the courts' and indeed of the Congress' inability to comprehend and agree with the interpretations within the internal revenue laws, One cannot be held responsible for any misunderstanding of internal revenue law, which One may have. Since there are no consistent rulings upon which One can depend, One is merely doing what One considers as true, correct and lawful. A One H. Clark Ford III has come to the conclusion that he is not required by law to file the above said forms but is required by law to make a statement pertaining to whether he is or whether he is not and that he must do so on or before April 15th of each year to assert his understanding of the previous year.

Title 26 USC § 7701(a)(14) defines a taxpayer as follows: "The term "taxpayer" means any person subject to any internal revenue tax." The phrase "internal revenue tax" does not appear in the Internal Revenue Code until Subtitle E: Alcohol, Tobacco and Certain Other Excise Taxes. 26 USC § 5005, entitled "Persons Liable for Tax", provides that proprietors of distilled spirit plants are the persons liable for internal revenue tax. Since H. Clark Ford III is not the

operator of a distilled spirit plant, One is not, by that definition, subject to any internal revenue tax, and therefore, One is not, by definition, a "taxpayer".

Any past admissions that H. Clark Ford III has been or is at present a "taxpayer" have been made in error and according to the court;

"*In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out.*" *Gould v. Gould,* 245 U.S., 151.

One is not authorized to file any form in the Form 1040 series or any other form pertaining to any internal revenue tax for the following reasons:

1. One has not been able to identify any IRS form in the 1040 series, which displays an OMB number relevant to 26 CFR § 1.1-1 and § 1.11-1. One cannot file under penalty of perjury a form, which One knows to be the incorrect form for him.

2. One can find no section of Subtitle A, which makes him liable for Subtitle A (income) taxes, and meets the requirements of the Paperwork Reduction Act in providing an OMB number which ties a liability section with Form 1040. Therefore, One firmly believes that One has no liability for Subtitle A taxes and therefore no requirement or authorization to file Form 1040 or any other form relative to Subtitle A (Tax Class 2).

This return has been mailed to the proper address published in 26 CFR. The Internal Revenue Service Centers no longer have the authority to receive and process income tax returns. Delegation Order 99 which authorized the Service Centers to receive and process returns, was declared obsolete, such authority having been transferred via the functional statement published in IRM 1100, at 1117.22. The IRM 1117.22 has also been declared obsolete, and no authority has superseded or replaced it. The only office listed as authorized to receive returns is the Director of International Operations according to 26 CFR § 1.6091-3.

Regulation at 26 CFR § 1.6091-4 provides an alternative to filing a return in a required district Therefore, if this return is filed in the incorrect venue, the director will please forward the return pursuant to 26 CFR § 1.6091-4(a)(2) to the proper destination and inform me of that location.

As there are presently no internal revenue districts authorized by law, it is difficult for one to know exactly what is to be filed, when or where. Perhaps a review of the following will explain my confusion with the matter:

Title 26 USC §762I requires the President to establish "internal revenue districts". Even if One wanted to volunteer, it would be impossible for him to comply with any alleged requirement to file Form 1040, in that the Internal Revenue Service has no internal revenue districts assigned and therefore no District Directors exist to

whom One could possibly send a return 1040 as per the following:

1. Section 7621 – Internal Revenue Districts.

(a) Establishment of revenue districts.

The President shall establish convenient internal revenue districts for the purpose of administering the internal revenue laws. The President may from time to time alter such districts.

Via Reorganization Plan 3 of 1940, President Roosevelt reassigned duties of the Federal Alcohol Administration to the Bureau of Internal Revenue, thereby abolishing an agency Congress established by law in 1935, then via Reorganization Plan 26 of 1950, President Harry S. Truman abolished offices of internal revenue assessors and collectors that had existed since 1862 legislation, But these changes did not adversely affect the American people at large. Since implementation of the Internal Revenue Code of 1954, there have been no Federal internal revenue districts in the several States. *The Internal Revenue Code limits IRS assessment and collection activity to whatever revenue districts are established under authority of 26 USC § 7621.* The vast majority of Internal Revenue Code taxing authority is geographical in nature and is limited to the District of Columbia and insular possessions of the United States, exclusive of the 50 States of the Union.

[In 1998 via Executive Order Number 10289 as amended, President William J. Clinton authorized the Secretary of] the Treasury to establish revenue

districts under authority of §7621 of the Internal Revenue Code. Although § 7621 isn't listed in the Parallel Table of Authorities and Rules, E.O. #10289 is listed. The implementing regulation is Title 19 of the Code of Federal Regulations (CPR) Part 101. The regulation establishes "*customs collection offices*" in each state of the Union; it does not establish internal revenue districts. A note at Part 301.7621-1 of Title 26 of the Code of Federal Regulations confirms that E.O. #10289 is the only authority for establishing revenue districts.

The Internal Revenue Service has no jurisdiction in The Republic of New Mexico and other States of the Union to enforce the internal revenue tax laws, as there exist no "*internal revenue districts*" pursuant to §7621, within the 50 States united on the North American Continent. The Federal tax enigma is resolved to a certain extent in understanding that there is another application of tax other than the geographical. Most of the reorganization plans, executive orders, etc. are intra-governmental in nature. The application is for government agencies and personnel, not the general population of the 50 Union states of the united States of America.

The term "income" is not defined in the Internal Revenue Code; see *United States v. Ballard*, 535 F.2d 400, 404 (8th Cir. 1976). One did not receive "income" as defined in the Code of Federal Regulations at 26 CFR § 1.643(b)-1, which is the only definition of "income" published in the Internal Revenue Code or its corresponding internal revenue regulations.

In *Nicholas v. Fifteenth Street Inv. Co.*, (1939, CA10 Colo.) 105 F2d 289, 39-2 USTC ¶ 9571, it was ruled that the power of Congress to lay and collect tax on income cannot be extended by legislative definition of the term "income".

Since One did not receive "income" or income form [sic] any "source", as identified by the Secretary for purposes of the income tax, One did not receive "gross income", and One did not have "taxable income". One has had no 'earned income', or income from any "source" as defined by 26 USC §861 and 26 CFR 1.861.(8) generally, as the only "source" for income tax purposes promulgated by the Secretary is contained in this section One has no federal income tax liability, as One has no income from any source listed. The term "earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered including the fair market value of all remuneration paid in any medium other than cash. Earned income is foreign earned income, and must come from sources wholly outside the United States, as evidenced by CFR §1.911-3 and IRM 3(38) (147) 7.1.

The face of Form 1040 indicates that it originates with the "Department of the Treasury, Internal Revenue Service". One cannot determine who or what this "agency" is, or when or how it originated. Apparently, neither the Department of Treasury nor the National Archives or Records Administration is able to determine who or what the "Internal Revenue Service" is. H. Clark Ford III cannot file any private

financial information with the "Department of the Treasury, Internal Revenue Service", since the IRS and Commissioner of Internal Revenue Service are entities of unknown power and duties. No confidential financial information will be provided to either, nor agents of either, unless and until H. Clark Ford III is provided with the documents, which state the origin, powers and duties of these entities, duly recorded in the Federal Register.

It appears that the "Internal Revenue" is the Puerto Rico special (trust) fund, as evidenced by 31 USC § 1321(62), and "internal revenue" is the Philippines special (trust) fund, as evidenced by 31 USC § 1321(2). H. Clark Ford III has incurred no liability to either the Philippines special fund or the Puerto Rico special fund. It may be a quaint notion, but possibly the Internal Revenue Service could publish in the Federal Register; it's Structure and field offices and other recordings which are mandated by Congress for Agencies of Government by Title 5 USC §552(a). This certainly would be helpful to all and reduce the uncertainty One now feels with an agency of government, which is invisible to the law.

The Form 1040, if processed, would be processed under the supervision and authority of the Commissioner, Internal Revenue Service. No authority appears to exist for this officer to administer taxes, other than wagering taxes under Treasury Delegation Order 221-3. H. Clark Ford III has not had any wagering income. Therefore, One has no filing and/or tax liability with this Officer. Further, One has not

been able to locate any statute, regulation or other document, which authorizes and/or creates the office of Commissioner, Internal Revenue Service.

One is not the "individual" described at 26 CFR § 1.6017-1. An individual is defined as a person who is liable for self-employment tax in the territories. For purposes of venue, TC 150 pertains only to the Virgin Islands. In *Mills v. United States* CIV-94-114-TUC-JMR (USDC AZ), a Freedom of Information Act lawsuit was instituted by Mr. Fred D. Mills, wherein he requested a copy of the documents indicating that Transaction Code (TC 150) on the Individual Master File, meant anything other than and/or in addition to the Virgin Islands. The U.S. Department of Justice Tax Division stated that, " . . . no other responsive document exists." This confirming that Transaction Code 150 means exclusively Virgin Islands, relevant to Venue, as is indicated at IRM 30(55) 4.2(29), now 30(55) 4.2(30).

Based upon the nonexistence of any document other than IRM 30(55) 4.2(29) discloseable under the FOIA, Mr. Mills stipulated to a dismissal with prejudice. Therefore, the input of Transaction Code TC 150 (VIRGIN IS) on my Individual Master File Transcript for all years is a clear violation of the Privacy Act and Treasury Department Regulations. The information maintained by this system of records, is not accurate, relevant, timely, or complete and is maintained in a system of records not authorized pursuant to Title 5 USC §552(a).

The status assigned to H. Clark Ford III by some entity within the Internal Revenue Service, of TC 150, is either computer fraud or an innocent error of input of data. Whatever the case may be demands an immediate correction of the error and a notification from you that the error has been corrected and informing H. Clark Ford III of the proper Transaction Code assigned to him.

One has made no election for the Internal Revenue Service to make any return for me, pursuant to 26 USC §§6014 or 6020. The Form 1040 is not approved by the Office of Management and Budget for use in either Substitute Return procedures under 26 USC §6020(b) or deficiency/Substitute for Return procedures under 26 USC §6211.

The Privacy Act System of Records 24.030, Individual Master File (IMF), Returns Processing – Treasury/IRS, is maintained on taxpayers who file Forms 1040 or power of attorney notifications. Since law as one who operates a distilled spirit Plant and since defines a taxpayer, H. Clark Ford III does not operate a distilled spirit Plant; the maintenance of any records in such system of records would violate the provisions of the Privacy Act and 31 CFR §§ 0.735-60 and 0.735-310. The records maintained would not be relevant, accurate or complete, and may be an indication of computer fraud.

First and foremost One is a natural person of the State of New Mexico and of the States united in America and One has been so since birth. One is a

non-resident alien to the UNITED STATES and its Territories, the sites of which is Washington, D.C., One is not a state or federal government employee, or a juristic personality and One has informed the IRS of these facts. H. Clark Ford III is a "non resident alien to DISTRICT UNITED STATES AND IT'S TERRITORIES. The non-resident alien "foreigner" may have an income tax liability to the UNITED STATES anywhere within the American Empire, regardless of the source of the income.

"No constitutional right exists under the Ninth Amendment, or to any other provision of the Constitution of the United States, " . . . to trust the Federal Government and to rely on the integrity of its pronouncements." *MAPCO, Inc. v Carter* (1978, Em Ct App) 573 F2d 1268, cert den 437 us 904, 57 L. Ed 2d 1134, 98 S Ct 3090.

If there exist any errors to the above assertions or facts and conclusions drawn therefrom, please indicate in writing with great specificity, such errors) and any applicable correction thereto, in conformance with Rev. Proc. 88-1, and 89-1, within 30 days or a Default will be entered against you. The individual responding will sign the rebuttal Affidavit under penalty of perjury. Time is of the essence.

Please supply documentation to support any contention on your part that One is or that One may be in error in any of the foregoing conclusions. If you do not respond in the time prescribed to this Filing Statement in Affidavit Form for the year 2005, One will

assume that One is correct in my understanding of the tax code and that One is in compliance with the law.

Horatio Clark Ford III declares under penalty of perjury, pursuant to the common law of the State of New Mexico and the united States of America, that the forgoing [sic] is true, accurate, and complete to the best of my knowledge and belief, so help me God.

/s/ H. Clark Ford III

Date:

**Notary**

**State of New Mexico**
**County of Chavez**

On this 15th day of April, 2005 Horatio Clark Ford III, came before me a Notary Public in and for the people of the State of New Mexico, Horatio Clark Ford III personally known by me, in my presence, under oath declared the truth of the above Statement Filing.

/s/ Robin Purcella

Name Robin Purcella [SEAL]

Address 111 W 3rd Street

City and State Rosevell, NM 88201

My Commission Expires: 9/29/07

[2006 – Return [Illegible]]

U.S. Postal Service
**CERTIFIED MAIL RECEIPT**
*(Domestic Mail Only: No Insurance Coverage Provided)*

For delivery information visit our website at www.usps.com:

**OFFICIAL USE**

| | | |
|---|---|---|
| Postage | $ .63 | Postmark Here |
| Certified Fee | 2.40 | |
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7006 0100 0007 3054 4814

| *Sent To* |
| --- |
| *Street, Apt. No.; or PO Box No.* |
| *City, State, Zip + 4* |

PS Form 3800, June 2002 See Reverse for Instructions

[LOGO] UNITED STATES POSTAL SERVICE

Track/Confirm – Intranet Item Inquiry
Item Number: 7006 0100 0007 3054 4814

**This item was delivered on 04/27/2007 at 06:43**

| | |
|---|---|
| **Signature:** | /s/ Larry D Smith |
| | LARRY D SMITH |
| **Address:** | IRS 20224 |

[LOGO] UNITED STATES POSTAL SERVICE

Track/Confirm – Intranet Item Inquiry – Domestic

| | | | |
|---|---|---|---|
| Item: 7006 0100 0007 3054 4814 | | Service Calculation Acceptance Date/Time: 04/16/2007 14:26 | |
| **Destination** | **ZIP Code:** 20044 | **City:** WASHINGTON | **State:** DC |
| **Origin** | **ZIP Code:** 88052 | **City:** ORGAN | **State:** NM |

**Class**: First Class

**Anticipated Delivery Date**: 04/19/2007

**Firm Book ID**: 5013 OSGU A667 0001 3334

| Event | Date/Time | Location | Scanner ID |
|---|---|---|---|
| ARRIVAL AT UNIT | 04/27/2007 06:44 | WASHINGTON, DC 20022 | 030SGUA667 |
| | Request Delivery Record | | |
| DELIVERED | 04/27/2007 06:43 | WASHINGTON DC 20022 | 030SGU9881 |
| | Firm Name: IRS 20224 R4 | | |
| | Recipient: 'L SMITH' | | |
| | Request Delivery Record | | |
| | View Delivery Signature and Address | | |
| ENROUTE | 04/18/2007 06:06 | WASHINGTON DC 20074 | 030SGSF016 |
| ACCEPT OR PICKUP | 04/18/2007 14:26 | ORGAN NM 88052 | 030SGSF016 L971929 |

Director of International Operations April 16th 2007:
Internal Revenue Service
Washington, D.C. 20044 Certified Mail #7006 0100
0007 3054 4814

(Former Soc. Sec. #
[Social Security Number
Omitted])

Horatio Clark Ford III
PO Box 424
Hagerman New Mexico 88232

**FILING STATEMENT FOR TAX YEAR (2006)**
**IN AFFIDAVIT FORM**

**Pursuant to 26 USC §§6011, 6012, 6103, 6213(g) and 7203.**

File Number – HCF 0416 06 – STATM

Dear Director,

One Horatio Clark Ford III being of sound mind and of the age of majority, having first hand knowledge of the facts and law being addressed in this Filing Statement for the tax year 2006, in Affidavit form, do hereby declare the following:

This is a return, for the year 2006 as One can at best define at 26 USC §§ 6103 and 6213(g) of the Internal Revenue Code, and 26 CFR § 301.7216-1(b)(1). This return is filed in lieu of an Internal Revenue Service Form 1040 series and satisfies the requirements of IRC § 6012. One has read the law and understands that all past filings of Internal Revenue Service Form 1040 by me have been in error. My past

misunderstanding of the law does not in any way reflect recognition on my part of any legal requirement or authorization to file Form 1040 and/or 1040A and/or 1040EZ and/or 1040SS. The assigned OMB number identifies the class of individual who is required to file those forms. One is not of that class of individual defined.

Title 26 USC § 6012, states that every person liable for any income "internal revenue" tax must file a return or statement as provided by law. For the reasons stated herein, One believes that One, is not liable for any internal revenue income tax or filing requirement. However, this statement is filed in order to avoid ambiguity or confusion regarding my filing requirement and status as well as to avoid any possible sanctions for failure to file. If One is incorrect in my understanding, One directs you to immediately inform me of my mistake and identify the Form or Statement One is required to file, if any.

Return. – The term "return" includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by Subtitle A or B, or chapter 41, 42, 43, or 44. This Statement complies with all legal requirements and is a statement or return within the meaning of 26 USC §§6011, 6012 and 6213(g):

The question as to which statute controls a duty to file an income tax return is the subject of many judicial disputes by the top legal minds of this country as evidenced by the following.

In *Commissioner v. Lane-Wells Co.,* 321 U.S. 219, 222, 64 S.Ct. 511, 513 (1944), the Court noted that § 54 of the 1939 Internal Revenue Code, the predecessor for Internal Revenue Code § 6001, related to the filing requirement; see also *Updike v. United States,* 8 F.2d 913, 915 (8th Cir. 1925). In *True v. United States,* 354 F.2d 323, 324 (Ct.Cl. 1965), *United States v. Carlson,* 260 F.Supp. 423, 425 (E.D.N.Y. 1966), *White v. Commissioner,* 72 U.S.T.C. 1126, 1129 (1979), *McCaskill v. Commissioner,* 77 U.S.T.C. 689, 698 (1981), *Counts v. Commissioner,* 774 F.2d 426, 427 (11th Cir. 1985), *Blount v. Commissioner,* 86 U.S.T.C. 383, 386 (1986), and *Beard v. Commissioner,* 793 F.2d 139 (6th Cir. 1986), these courts held that Internal Revenue Code § 6011 related to the filing requirement. In *United States v. Moore,* 627 F.2d 830, 834 (7th Cir. 1980), *United States v. Dawes,* 951 F.2d 1189, 1192, n. 3 (10th Cir. 1991), and *United States v. Hicks,* 947 F.2d 1356, 1360 (9th Cir. 1991), those courts held that Internal Revenue Code §§ 6011 and 6012 governed this duty. In contrast, the cases of *Steinbrecher v. Commissioner,* 712 F.2d 195, 198 (5th Cir. 1983), *United States v. Bowers,* 920 F.2d 220, 222 (4th Cir. 1990), and *United States v. Neff,* 954 F.2d 698, 699 (11th Cir. 1992), held that only § 6012 governed this duty. But in *United States v. Pilcher,* 672 F.2d 875, 877 (11th Cir. 1982), none of the above sections were mentioned and it was held that §7203 required returns to be filed.

It is apparent that there exists an extreme vicissitude of opinion in the federal courts regarding which

statutes govern the requirement to file income tax returns.

If the Federal District Courts, Tax Court, Court of Claims and the Supreme Court cannot definitively decide the fundamental question as to which section of the Internal Revenue Code requires the filing of an income tax return, whether the tax imposed is an excise or a direct tax, it is obvious that the average American, not educated in the law, will have great difficulty in understanding the tax imposed and this basic question on filing requirements, the species of the tax, among many other questions.

Since the courts are so deeply split over this issue, how can anyone understand the law in an atmosphere of judicial incertitude? Due process requires that the law be such that the duty imposed is unambiguous and those subject to it are able to understand the law. This is not the case with Title 26 USC or 26 CFR implementing regulations.

In 1913, a debate on the Senate floor, regarding the first income tax act under the 16th Amendment was held. Senator Elihu Root commented about the complexity of that first law.

*"I guess you will have to go to jail. If that is the result of not understanding the Income Tax Law I shall meet you there. We shall have a merry, merry time, for all of our friends will be there. It will be an intellectual center, for no one understands the Income Tax Law except persons who have not sufficient intelligence to understand the questions that arise under it."*

All the confusion over an eighty-page Act then, is exponentially compounded by the current ten thousand page, plus, internal revenue code 26 USC, along with more than thirty thousand pages of implementing internal revenue regulations 26 CFR and some unauthorized for IRS usage from 27 CFR.

In light of this judicial uncertainty, One is doing my best to understand and comply with the law and regulations. In light of the courts' and indeed of the Congress' inability to comprehend and agree with the interpretations within the internal revenue laws, One cannot be held responsible for any misunderstanding of internal revenue law, which One may have. Since there are no consistent rulings upon which One can depend, One is merely doing what One considers as hue, correct and lawful The Internal Revenue Services' guidance to me in this matter is absolutely essential and is hereby demanded by rebuttal Affidavit.

Title 26 USC § 7701(a)(14) defines a taxpayer as follows: "The term "taxpayer" means any person subject to any internal revenue tax." The phrase "internal revenue tax" does not appear in the Internal Revenue Code until Subtitle E: Alcohol, Tobacco and Certain Other Excise Taxes. 26 USC § 5005, entitled "Persons Liable for Tax", provides that proprietors of distilled spirit plants are the persons liable for internal revenue tax. Since One is not the operator of a distilled spirit plant, One is not, by that definition, subject to any internal revenue tax, and therefore, One is not, by definition, a "taxpayer".

Any past admissions that One was or am at present a "taxpayer" have been made in error and according to the court;

"*In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used or to enlarge their operations so as to embrace matters not specifically pointed out.*" *Gould v. Gould,* 245 U.S., 151.

One is not authorized to file any form in the Form 1040 series or any other form pertaining to any internal revenue tax for the following reasons:

1. One has not been able to identify any IRS form in the 1040 series, which displays an OMB number relevant to 26 CFR §1.1-1 and §1.11-1. One cannot file under penalty of perjury a form, which One knows to be the incorrect form for me.

2. One can find no section of Subtitle A, which makes me liable for Subtitle A (income) taxes, and meets the requirements of the Paperwork Reduction Act in providing an OMB number which ties a liability section with Form 1040. Therefore, One firmly believes that One has no liability for Subtitle A taxes and therefore no requirement or authorization to file Form 1040 or any other form relative to Subtitle A (Tax Class 2).

   This return has been mailed to the proper address published in 26 CFR. The Internal Revenue Service Centers no longer have the authority to

receive and process income tax returns. Delegation Order 99 which authorized the Service Centers to receive and process returns, was declared obsolete, such authority having been transferred via the functional statement published in IRM 1100, at 1117.22. The IRM 1117.22 has also been declared obsolete, and no authority has superseded or replaced it. The only office listed as authorized to receive returns is the Director of International Operations according to 26 CFR § 1.6091-3.

Regulation at 26 CFR § 1.6091-4 provides an alternative to filing a return in a required district. Therefore, if this return is filed in the incorrect venue, the director will please forward the return pursuant to 26 CFR § 1.6091-4(a)(2) to the proper destination and inform me of that location.

As there are presently no internal revenue districts authorized by law, it is difficult for one to know exactly what is to be filed, when or where. Perhaps a review of the following will explain my confusion with the matter:

Title 26 USC §7621 requires the President to establish "internal revenue districts". Even if One wanted to volunteer, it would be impossible for me to comply with any alleged requirement to file Form 1040, in that the Internal Revenue Service has no internal revenue districts assigned and therefore no District Directors exist to whom One could possibly send a return 1040 as per the following:

1. Section 7621 – Internal Revenue Districts.

(a) Establishment of revenue districts.

The President shall establish convenient internal revenue districts for the purpose of administering the internal revenue laws. The President may from time to time alter such districts.

Via Reorganization Plan 3 of 1940, President Roosevelt reassigned duties of the Federal Alcohol Administration to the Bureau of Internal Revenue, thereby abolishing an agency Congress established by law in 1935, then via Reorganization Plan 26 of 1950, President Harry S. Truman abolished offices of internal revenue assessors and collectors that had existed since 1862 legislation. But these changes did not adversely affect the American people at large. Since implementation of the Internal Revenue Code of 1954, there have been no Federal internal revenue districts in the several States. *The Internal Revenue Code limits IRS assessment and collection activity to whatever revenue* districts *are established under authority of 26 USC* § 7621. The vast majority of Internal Revenue Code taxing authority is geographical in nature and is limited to the District of Columbia and insular possessions of the United States, exclusive of the 50 States of the Union.

In 1998, via Executive Order #10289, as amended, President William J. Clinton authorized the Secretary of the Treasury to establish revenue districts under authority of §7621 of the Internal Revenue Code. Although § 7621 isn't listed in the Parallel

Table of Authorities and Rules, E.O. #10289 is listed. The implementing regulation is Title 19 of the Code of Federal Regulations (CFR) Part 101. The regulation establishes *"customs collection offices"* in each state of the Union; it does not establish internal revenue districts. A note at Part 301.7621-1 of Title 26 of the Code of Federal Regulations confirms that E.O. #10289 is the only authority for establishing revenue districts.

The internal Revenue Service has no jurisdiction in The Republic of New Mexico and other States of the Union to enforce the internal revenue tax laws, as there exist no *"internal revenue districts"* pursuant to §7621, within the 50 Union states. The Federal tax enigma is resolved to a certain extent in understanding that there is another application of tax other than the geographical. Most of the reorganization plans, executive orders, etc. are intra-governmental in nature. The application is for government agencies and personnel, not the general population of the 50 Union states of the united States of America.

The term "income" is not defined in the Internal Revenue Code; see *United States v. Ballard,* 535 F.2d 400, 404 (8th Cir. 1976). One did not receive "income" as defined in the Code of Federal Regulations at 26 CFR § 1.643(b)-1, which is the only definition of "income" published in the Internal Revenue Code or its corresponding internal revenue regulations.

In *Nicholas v. Fifteenth Street Inv. Co.,* (1939, CA10 Colo.) 105 F2d 289, 39-2 USTC ¶ 9571, it was ruled

that the power of Congress to lay and collect tax on income cannot be extended by legislative definition of the term "income".

Since One did not receive "income" or income form [sic] any "source", as identified by the Secretary for purposes of the income tax, One did not receive "gross income", and One did not have "taxable income". One has had no 'earned income', or income from any "source" as defined by 26 USC §861 and 26 CFR 1.861.(8) generally, as the only "source" for income tax purposes promulgated by the Secretary is contained in this section One has no federal income tax liability, as One has no income from any source listed. The term "earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered including the fair market value of all remuneration paid in any medium other than cash. Earned income is foreign earned income, and must come from sources wholly outside the United States, as evidenced by 26 CFR § 1.911-3, and IRM 3(38) (147) 7.1.

The face of Form 1040 indicates that it originates with the "Department of the Treasury, Internal Revenue Service". One cannot determine who or what this "agency" is, or when or how it originated. Apparently, neither the Department of Treasury nor the National Archives or Records Administration is able to determine who or what the "Internal Revenue Service" is. One cannot file any private financial information with the "Department of the Treasury, Internal Revenue Service", since the IRS and

Commissioner of Internal Revenue Service are entities of unknown power and duties. No confidential financial information will be provided to either, nor agents of either, unless and until One is provided with the documents, which state the origin, powers and duties of these entities, duly recorded in the Federal Register.

It appears that the "Internal Revenue" is the Puerto Rico special (trust) fund, as evidenced by 31 USC § 1321(62), and "internal revenue" is the Philippines special (trust) fund, as evidenced by 31 USC § 1321(2). One has incurred no liability to either the Philippines special fund or the Puerto Rico special fund. It may be a quaint notion, but possibly the Internal Revenue Service could publish in the Federal Register; it's Structure and field offices and other recordings which are mandated by Congress for Agencies of Government by Title 5 USC §552(a). This certainly would be helpful to all and reduce the uncertainty One now feels with an agency of government, which is invisible to the law.

The Form 1040, if processed, would be processed under the supervision and authority of the Commissioner, Internal Revenue Service. No authority appears to exist for this officer to administer taxes, other than wagering taxes under Treasury Delegation Order 221-3. One has not had any wagering income. Therefore, One has no filing and/or tax liability with this Officer. Further, One has not been able to locate any statute, regulation or other document, which

authorizes and/or creates the office of Commissioner, Internal Revenue Service.

One is not the "individual" described at 26 CFR § 1.6017-1. An individual is defined as a person who is liable for self-employment tax in the territories. For purposes of venue, TC 150 pertains only to the Virgin Islands. In *Mills v. United States* CIV-94-114-TUC – JMR (USDC AZ), a Freedom of Information Act lawsuit was instituted by Mr. Fred D. Mills, wherein he requested a copy of the documents indicating that Transaction Code (TC 150) on the Individual Master File, meant anything other than and/or in addition to the Virgin Islands. The U.S. Department of Justice Tax Division stated that, " . . . no other responsive document exists." This confirming that Transaction Code 150 means exclusively Virgin Islands, relevant to Venue, as is indicated at IRM 30(55) 4.2(29), now 30(55) 4.2(30).

Based upon the nonexistence of any document other than IRM 30(55) 4.2(29) discloseable under the FOIA, Mr. Mills stipulated to a dismissal with prejudice. Therefore, the input of Transaction Code TC 150 (VIRGIN IS) on my Individual Master File Transcript for all years is a clear violation of the Privacy Act and Treasury Department Regulations. The information maintained by this system of records, is not accurate, relevant, timely, or complete and is maintained in a system of records not authorized pursuant to Title 5 USC §552(a).

The status assigned to me by some entity within the Internal Revenue Service, of TC 150, is either computer fraud or an innocent error of input of data. Whatever the case may be One demands an immediate correction of the error and a notification from you that the error has been corrected and informing me of the proper Transaction Code assigned to me.

One has made no election for the Internal Revenue Service to make any return for me, pursuant to 26 USC §§6014 or 6020. The Form 1040 is not approved by the Office of Management and Budget for use in either Substitute Return procedures under 26 USC §6020(b) or deficiency/Substitute for Return procedures under 26 USC §6211.

The Privacy Act System of Records 24.030, Individual Master File (IMF), Returns Processing-Treasury/IRS, is maintained on taxpayers who file Forms 1040 or power of attorney notifications. Since a taxpayer is defined by law as one who operates a distilled spirit Plant and since One does not operate a distilled spirit Plant; the maintenance of any records in such system of records would violate the provisions of the Privacy Act and 31 CFR §§ 0.735-60 and 0.735-310. The records maintained would not be relevant, accurate or complete, and May be an indication of computer fraud.

First and foremost One is a natural person of the State of New Mexico and of the united States of America and One have been so since birth. One is a non-resident alien to the UNITED STATES and its

Territories, the sites of which is Washington, D.C., One is not a state or federal government employee, or a juristic personality and One has informed the IRS of these facts. One is not nor has One ever been a non-resident alien "foreigner" for income tax purposes relative to the UNITED STATES. The non-resident alien "foreigner" may have an income tax liability to the UNITED STATES anywhere within the American Empire, regardless of the source of the income.

"No constitutional right exists under the Ninth Amendment, or to any other provision of the Constitution of the United States, " . . . to trust the Federal Government and to rely on the integrity of its pronouncements." *MAPCO, Inc. v Carter* (1978, Em Ct App) 573 F2d 1268, cert den 437 us 904, 57 L Ed 2d 1134, 98 S Ct 3090.

One will be the first to admit that One does not have the intelligence to understand the tax law, as Senator Elihu Root commented in 1913. One does however have the intelligence to ask the questions.

## STATUTORY NOTICE

If there exists any error(s) in any of my facts or in any of the conclusions drawn from them, please indicate in writing with great specificity, such errors) and any applicable correction thereto, in conformance with Rev. Proc. 88-1, and 89-1, within 30 days or a Default will be entered against you. The individual responding will sign the rebuttal Affidavit under penalty of perjury. Time is of the essence.

Please supply documentation to support any contention on your part that One is or that One may be in error in any of the foregoing conclusions. If you do not respond in the time prescribed to this Filing Statement in Affidavit Form for the year 2006, One will assume that One is correct in my understanding of the tax code and that One is in compliance with the law.

Horatio Clark Ford III declares under penalty of perjury, pursuant to the common law of the State of New Mexico and the united States of America, that the forgoing is true, accurate, and complete to the best of my knowledge and belief, so help me God.

/s/ H. Clark Ford III

Date: April 16th 2007

**NOTORIAL**

**State of New Mexico**

**County of Dona Ana**

On this 16th day of April, 2007 Horatio Clark Ford III, came before me a Notary Public in and for the people of the State of New Mexico, Horatio Clark Ford III personally known by me, in my presence, under oath declared the truth of the above Statement Filing.

/s/ Angelica Payan

Name Angelica Payan [SEAL]

Address 2145 E Lohman Ave

City and State Las Cruces NM

My Commission Expires: 1-19-10

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